BEST COPY
AVAILABLE

State Law Library of Montana

MONTANA LEGISLATIVE HISTORY

Chapter 447 Session L 85
Bill House 277 Senate ____

History and final status sheet X
Introduced bill X
Fiscal note NA
Third reading bill X
Final version of bill X

House Committee on State Admin/Local C
Hearing date(s)* 2-7 2-16 2-21
Executive action (vote) date(s)* 2-21
Comm. Report 2-21
Floor 2nd reading & vote 2-23
Floor 3rd reading & vote 2-26

Senate Committee on Local Government
Hearing date(s)* 3-9 3-12 3-16
Executive action (vote) date(s)* 3-16
Comm. Report 3-18
Floor 2nd reading & vote 3-25
Floor 3rd reading & vote 3-27

Conference or Free Conference Comm. ____ Yes X No
Hearing date(s)* _____
Executive action (vote) date(s)* _____

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? ____ Yes X No
Committee _____ Report _____

NOTES:

State Law Library of Montana

Compiled by: revised by rg
Date: 2-25-2016

3/18	SIGNED BY PRESIDENT		
3/19	TRANSMITTED TO GOVERNOR		
3/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 131 EFFECTIVE DATE: 10/01/85		

HB 277 INTRODUCED BY MANUEL
ALLOW PRIVATE PARTIES TO RUN JAILS; EXEMPT JAILS FROM FINANCING LIMITS
BY REQUEST OF BOARD OF CRIME CONTROL

1/19	INTRODUCED		
1/19	REFERRED TO STATE ADMINISTRATION		
1/21	REREFERRED TO LOCAL GOVERNMENT		
2/07	HEARING		
2/22	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/23	2ND READING PASS	93	0
2/26	3RD READING PASS	98	0
	TRANSMITTED TO SENATE		
3/04	REFERRED TO LOCAL GOVERNMENT		
3/09	HEARING		
3/20	COMM REPORT-BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED	46	3
3/27	3RD READING CONCURRED	47	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/02	2ND READING AMENDMENTS CONCURRED	95	0
4/03	3RD READING AMENDMENTS CONCURRED	97	0
4/08	SIGNED BY SPEAKER		
4/08	SIGNED BY PRESIDENT		
4/09	TRANSMITTED TO GOVERNOR		
4/11	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 447 EFFECTIVE DATE: 10/01/85		

HB 278 INTRODUCED BY MENAHAN, PAVLOVICH, ET AL.
REDUCE NUMBER OF WEEKS OF WORK REQUIRED TO QUALIFY FOR UNEMPLOYMENT

1/19	INTRODUCED		
1/19	REFERRED TO BUSINESS & LABOR		
1/21	FISCAL NOTE REQUESTED		
1/25	FISCAL NOTE RECEIVED		
1/28	HEARING		
	DIED IN COMMITTEE		

HB 279 INTRODUCED BY KITSELMAN, HAGER, ABRAMS, ET AL.
RURAL IMPROVEMENT DISTRICTS - TRANSFER OF MONEY TO MAINTENANCE FUND

1/19	INTRODUCED		
1/19	REFERRED TO LOCAL GOVERNMENT		
2/05	HEARING		
2/06	COMMITTEE REPORT-BILL DO PASS		
2/07	2ND READING PASS	90	3
2/08	3RD READING PASS	97	2
	TRANSMITTED TO SENATE		
2/09	REFERRED TO TAXATION		

2

HOUSE BILL NO. 277

INTRODUCED BY Manuel

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING OF JAILS AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING LIMITATIONS; AND AMENDING SECTIONS 7-7-2101, 7-7-2203, 7-7-2221, 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201, 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209, 7-32-2212, 7-32-2221, AND 7-32-2222, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. County jails -- contracts with private parties. (1) The term of an agreement under 7-32-2201 with a private party may not exceed 3 years.

(2) The agreement must include:

(a) detailed standards for the operation of the jail and the incarceration of prisoners;

(b) a performance bond from the private party acceptable to the county;

(c) a promise from the private party to indemnify the county for any damages for which the county is found liable as a result of the operation of the jail;

(d) a provision that the private party must purchase liability insurance in an amount acceptable to the county;

(e) minimum standards for the training of jailers and a provision that the private party will ensure such training; and

(f) a provision that the county may immediately terminate the contract for good cause.

(3) The provisions of Title 7 relating to bids for county contracts and purchases do not apply to a contract entered into under 7-32-2201 and this section.

NEW SECTION. Section 2. Requests for contract proposals. (1) A county seeking to enter into a contract under 7-32-2201 and [section 1] may publish a request for proposals. The request for proposals must be published in a newspaper of general circulation in the county once a week for 3 successive weeks and must include information concerning the type of jail services required.

(2) Requests for proposals must be sent to persons who have previously requested that their names be placed on a list of persons providing jail services. The Montana board of crime control shall maintain a list of persons providing jail services and furnish the list to a county upon request.

(3) In selecting a proposal and awarding a contract, a

county need not accept the proposal with the lowest cost.

(4) The county must base its selection on demonstrated competence, knowledge and qualifications, the reasonableness of the services proposed, and the reasonableness of the proposed contract price for the jail services.

(5) A copy of all proposals must be kept available for public inspection in the office of the county clerk and recorder.

(6) The county must give specific reasons for its selection of a proposal. The reasons must be recorded in the minutes of the governing body of the county.

NEW SECTION. Section 3. Powers of jail administrators and private party jailers. A jail administrator or a private party acting as a jailer under an agreement, as provided for in 7-32-2201(2), and his assistant jailers have the powers and duties of sheriffs:

(1) within the confines and grounds of the jail; and

(2) outside the jail confines and grounds while transporting any prisoner or in the pursuit or apprehension of any escapee.

Section 4. Section 7-7-2101, MCA, is amended to read:

"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 23% of the taxable

value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, except that an additional indebtedness of up to 12.5% of the taxable value of the property in the county subject to taxation may be incurred for the construction or improvement of a jail.

(2) No county may incur indebtedness or liability for any single purpose, except for the construction or improvement of a jail, to an amount exceeding $150,000 without the approval of a majority of the electors thereof voting at an election to be provided by law, except as provided in 7-21-3413 and 7-21-3414."

Section 5. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) ~~and (3)~~ through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the taxable value of the property therein, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) ~~A~~ In addition to the bonds allowed by subsection (1), a county may issue bonds which~~, with all outstanding~~

~~bonds-and-warrants,-will-exceed-11.25%-but~~ will not exceed ~~37%~~ 25.75% of the taxable value of ~~such--property~~ the property in the county subject to taxation, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail, which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

~~(3)~~(4) The ~~foregoing~~ limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Section 6. Section 7-7-2221, MCA, is amended to read:

"7-7-2221. Issuance of certain general obligation bonds without election. Bonds may be issued without submitting the same to an election if the bonds are issued for the purpose of:

(1) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of a county boundary line, as set forth in 7-7-2201(5); ~~and~~

(2) funding, paying in full, or compromising, settling, and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, as set forth in 7-7-2202~~,~~; and

(3) construction or improvement of a jail."

Section 7. Section 7-32-2121, MCA, is amended to read:

"7-32-2121. Duties of sheriff. The sheriff must:

(1) preserve the peace;

(2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

(3) prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

(4) perform the duties of a humane officer within the county with reference to the protection of dumb animals;

(5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the county jail and the prisoners therein, unless the jail is operated by a private

party under an agreement entered into under 7-32-2201 or by a jail administrator;

(8) endorse upon all notices and process the year, month, day, hour, and minute of reception and issue therefor to the person delivering them, on payment of fees, a certificate showing the names of the parties, the title of the paper, and the time of reception;

(9) serve all process or notices in the manner prescribed by law;

(10) certify in writing upon the process or notices the manner and time of service or, if he fails to make service, the reasons of this failure, and return the papers without delay;

(11) take charge of and supervise search and rescue units and their officers whenever search and rescue units are called into service; and

(12) perform such other duties as are required by law."

Section 8. Section 7-32-2123, MCA, is amended to read:

"7-32-2123. Appointment of deputy sheriff to act as jailer. ~~The~~ A sheriff who operates a county jail may appoint two deputies in counties of the first, second, or third class and one deputy in counties of the fourth, fifth, sixth, or seventh class who shall act as jailer and receive the same salary as other deputy sheriffs."

Section 9. Section 7-32-2132, MCA, is amended to read:

"7-32-2132. Liability for escape in civil actions. (1) A sheriff, jail administrator, or private party jailer who fails to prevent the escape or rescue of a person in his custody arrested in a civil action without the consent or connivance of the party in whose behalf the arrest or imprisonment was made is liable as follows:

(a) When the arrest is upon an order to hold for bail or upon a surrender in exoneration of bail before judgment, the sheriff, jail administrator, or private party jailer is liable to the plaintiff for the bail.

(b) When the arrest is on an execution or commitment to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the amount expressed in the execution or commitment.

(c) When the arrest is on an execution or commitment other than to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the actual damages sustained.

(2) Upon being sued for damages for an escape or rescue of a person in his custody, the sheriff, jail administrator, or private party jailer may introduce evidence in mitigation or exculpation.

(3) An action may not be maintained against a sheriff, jail administrator, or private party jailer for a rescue or for an escape of a person arrested upon an execution or

commitment if, after his rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff, jail administrator, or private party jailer."

Section 10. Section 7-32-2201, MCA, is amended to read:

"7-32-2201. County jail required. (1) A jail shall be built or provided and kept in good repair at the expense of the county in each county, except that whenever in the discretion of the commissioners of two or more counties it is necessary or desirable to build, provide, or utilize a common jail, they may do so in any city or town located within one of the counties so concerned. Such common jail shall be built or provided and kept in good repair at the expense of the counties concerned on a basis as the commissioners of the counties shall agree.

(2) A county, or two or more counties acting together, may provide for the jail required by subsection (1) by:

(a) establishing in the county government the position of jail administrator and, with the sheriff's concurrence, hiring a person, who is answerable to the governing body of the county, to fill the position; or

(b) entering into an agreement with a private party under which the private party will provide, maintain, or operate the jail.

~~(2)~~(3) The common jails in the several counties of this state are kept by the sheriffs, jail administrators, or private parties agreeing to act as jailers of the counties in which they are respectively situated. In the case of more than one county utilizing a common jail as provided in subsection (1), such jail shall be kept by the sheriffs of the counties utilizing the common jail on a basis as the sheriffs shall agree, by a jail administrator hired by the county in which the jail is situated, or by a private party agreeing to act as the jailer.

~~(3)~~(4) The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to cause a jail to be erected, furnished, and maintained."

Section 11. Section 7-32-2202, MCA, is amended to read:

"7-32-2202. Use of jail in contiguous county. (1) When there is no jail in the county or when the jail becomes unfit or unsafe for the confinement of prisoners, the district judge may, by written appointment filed with the clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county (or any of them) and may at any time modify or annul the appointment.

(2) A copy of the appointment, certified by the clerk, must be served on the sheriff ~~or~~ of each county, and the

keeper of the designated jail if the keeper is not the sheriff, who must receive into his jail all prisoners authorized to be confined therein pursuant to this section and who is responsible for the safekeeping of the persons so committed in the same manner and to the same extent as if he were the sheriff, jail administrator, or private party jailer of the county for whose use his jail is designated. With respect to the persons so committed, he is deemed the sheriff, jail administrator, or private party jailer of the county from which they were removed.

(3) When a jail is erected in the county for the use of which the designation was made or its jail is rendered fit and safe for the confinement of prisoners, the district judge of that county must, by a written revocation filed with the clerk, declare that the necessity for the designation has ceased and that it is revoked.

(4) The clerk must immediately serve a copy of the revocation upon the sheriff of each county and the keeper of the ~~county, who~~ jail in each county if the keeper is not the sheriff. The keeper of the jail in the designated county must thereupon remove the prisoners to the jail from which the removal was had."

Section 12. Section 7-32-2204, MCA, is amended to read:

"7-32-2204. Maintenance of county jail. (1) The county

commissioners, or the private party when provided in an agreement entered into under 7-32-2201(2), have the care duty of building, inspecting, and repairing the jail and:

~~(1) must, once every 3 months, inquire into its state, as respects the security thereof, and the treatment and condition of prisoners; and~~

~~(2)~~ must take all necessary precautions against escape, sickness, or infection.

(2) The county commissioners must inquire into the security of the jail and the condition of the prisoners every 3 months."

Section 13. Section 7-32-2205, MCA, is amended to read:

"7-32-2205. Confinement of prisoners. The sheriff, jail administrator, or private party jailer must receive all persons committed to jail by competent authority and provide them with necessary food, clothing, and bedding, for which he sheriffs and jail administrators, but not jailers operating a jail under an agreement provided for in 7-32-2201(2), shall submit claims for the actual expenses incurred to the board of county commissioners for their determination and, except as provided in 7-32-2207, to be paid out of the county treasury."

Section 14. Section 7-32-2206, MCA, is amended to read:

"7-32-2206. Confinement of federal prisoners. (1) The sheriff, jail administrator, or private party jailer must receive and keep in the county jail any prisoner committed thereto by process or order issued under the authority of the United States until he is discharged according to law, as if he had been committed under process issued under the authority of this state.

(2) Provision and agreement for the use of said jails and the support and subsistence of such federal prisoners shall first be made by the United States, through or by the proper officer or officers, with the board of county commissioners of the county wherein such prisoners are to be confined. Such agreement shall be in writing and contain a provision that the United States shall, upon claim presented for the county by its county clerk and recorder, pay into the county treasury of the county or to a jailer operating a jail under an agreement provided for by 7-32-2201(2) the sum of $10 per day for each and every prisoner held in the county jail upon order or commitment of the United States government or any department or officer thereof.

(3) A sheriff, jail administrator, or private party jailer to whose custody a prisoner is committed as provided in this section is answerable for his safekeeping in the courts of the United States, according to the laws thereof."

Section 15. Section 7-32-2207, MCA, is amended to

read:

"7-32-2207. Confinement of persons on civil process. (1) Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff, jail administrator, or private party jailer is not bound to receive such person unless security is given on the part of the party at whose instance the process is issued, by a deposit of money, to meet the expenses for him of necessary food, clothing, and bedding or to detain such person any longer than these expenses are provided for.

(2) This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court."

Section 16. Section 7-32-2209, MCA, is amended to read:

"7-32-2209. Expenses of persons committed to jail by highway patrol bureau. In the event a person is committed to jail by the highway patrol bureau, department of justice, the state of Montana shall, upon claim presented for the county by the clerk and recorder, pay into the county treasury of the county or to a jailer operating a jail under an agreement provided for in 7-32-2201(2) the sum of $10 per day for each and every prisoner held in the county jail upon order or commitment of the highway patrol bureau or any

department or officer thereof. For the purposes of this section, a day shall be defined as a 24-hour period or portion thereof, beginning with the time of incarceration. Such claims upon the highway patrol bureau, department of justice, shall be paid ~~to the various counties~~ out of funds appropriated for that purpose."

Section 17. Section 7-32-2212, MCA, is amended to read:

"7-32-2212. ~~Sheriff to prepare list~~ List of prisoners. The sheriff, jail administrator, or private party jailer of each county must, on the first Monday in January and every 3 months thereafter, return to the county commissioners a certified list of the names of all prisoners in his custody on the last day of the preceding month, with the time and cause of their confinement, the length of time for which they were committed, and the number received and discharged during the preceding 3 months. In case he fails to do so, the sheriff, jail administrator, or private party jailer must not receive any compensation for the sustenance of the prisoners in his custody."

Section 18. Section 7-32-2221, MCA, is amended to read:

"7-32-2221. Segregation of prisoners -- confinement of juveniles. (1) Each county jail must contain a sufficient number of rooms to allow the sheriff, jail administrator, or

private party jailer to separately confine classes of prisoners as may be necessary to the security and safety of those prisoners and the jail.

(2) Persons who are violent, disturbed, or inebriated must not be kept or put into the same room with other prisoners, nor shall male and female prisoners (except husband and wife) be kept or put into the same room.

(3) Juveniles may be confined only under conditions that comply with 41-5-306(2)."

Section 19. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) When a county jail or building contiguous to it is on fire and there is reason to believe that the prisoners may be injured or endangered, the sheriff, jail administrator, or private party jailer must remove them to a safe and convenient place and there confine them as long as it may be necessary to avoid the danger.

(2) When a pestilence or contagious disease breaks out in or near a jail and the physician thereof certifies that it is likely to endanger the health of the prisoners, the district judge may by a written appointment designate a safe and convenient place in the county or the jail in a contiguous county as the place of their confinement. The appointment must be filed in the office of the clerk and

authorize the sheriff, jail administrator, or private party jailer to remove the prisoners to the designated place or jail and there confine them until they can be safely returned to the jail from which they were taken.

(3) If in the opinion of the sheriff, jail administrator, or private party jailer any prisoner, while detained, requires medication, medical services, or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the prisoner is being detained. The county attorney shall initiate proceedings to collect any charges arising from such medical services or hospitalization for the prisoner involved if it is determined the prisoner is financially able to pay."

-End-

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

Forty-Ninth LEGISLATIVE SESSION

COMMITTEE ON State Administration

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 270	1/19	1/30	1/30	1/30					
274	1/19	2/13	2/13			2/13			
277	1/19	REREFERRED TO LOCAL GOVERNMENT							
281	1/19	1/30 & 1/31	1/30 & 1/31		1/30 & 1/31				
283	1/19	2/1	2/1	2/1					
288	1/21	1/31 & 2/13	2/13			2/13			
289	1/21	1/31	1/31	1/31					
291	1/21	2/1	2/1	2/1					
292	1/21	2/1	2/1			2/1			
297	1/21	1/31	1/31	1/31					
298	1/21	2/1	2/1	2/1					
302	1/21	1/31	1/31			1/31			
256	1/21	2/8	2/8			2/8			
308	1/22	1/29	TABLED						
327	1/22	2/8	2/8		2/8				
336	1/22	2/4	2/4	2/4					

Use a separate sheet for Senate, House Bills, and Resolutions

(To be kept current -- post bills when entering, being heard or leaving committee.) Form CS-

STATUS SHEET

49th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT

HOUSE BILLS

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 160	1-12-85	1-31-85	2-16-85			STATEMENT OF INTENT 2-16-85			
HB 171	1-14-85	1-29-85	2-7-85	2-7-85					
HB 173	1-14-85	1-29-85	1-29-85		AS AMENDED 1-29-85				
HB 186	1-15-85	1-31-85	2-2-85			2-2-85			
HB 232	1-17-85	2-2-85	2-5-85			~~2-5-85~~ 2-2-85			
HB 239	1-17-85	2-2-85	2-16-85			2-16-85			
HB 53	1-17-85	2-2-85	TABLED 2-[illegible]-85						
HB 248	1-18-85	1-31-85	1-31-85	1-31-85					
HB 253	1-18-85	2-7-85	2-7-85		2-7-85				
HB 255	1-18-85	2-9-85	2-9-85		2-9-85				
HB 263	1-18-85	1-19-85 Re-referred to Business and Labor							
HB 279	1-21-85	2-5-85	2-5-85	2-5-85					
HB 299	1-21-85	2-5-85	2-5-85	2-5-85					
HB 277	1-21-85	2-7-85	2-21-85			2-21-85			
HB 328	1-22-85	2-9-85	2-9-85			2-9-85			
HB 347	1-22-85	2-5-85	2-5-85		2-5-85				

Use a separate sheet for Senate, House Bills and Resol

13.

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 7, 1985

The meeting of the Local Government Committee was called to order by Chairman Darko on February 7, 1985 at 3:30 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present; however, Rep. Wallin, Vice Chairman of Local Government Committee, and Rep. Brown were late.

CONSIDERATION OF HOUSE BILL NO. 407: Rep. Ream of District 54, Missoula, appeared before the committee as sponsor of this bill. He explained this would allow counties that have an established air pollution program to assess fees against certain motor vehicles to fund their program. Sections 1 and 2 are the important sections of the bill. Section 1 of the bill is the mechanics for funding those programs which would allow local jurisdiction, either municipalities or counties, to assess a fee up to $1.50 on each car or truck to help fund the air pollution programs. It would depend on each county as to how they use the fee. One county will assess only about 55 cents to do that. He stated there are proponents from the counties involved here to testify.

PROPONENTS: Rep. Ream wanted it to be known that he had received a phone call from Steve Dougan of Yellowstone county who wants to go on record as a proponent of HB 407.

Jim Carlson, an employee of the Missoula County Health Department wanted to go on record as supporting this bill. The bill was developed in cooperation with the people from Yellowstone county, who couldn't make it here because of inclement weather. In Yellowstone county this will be used as a decreased reliance on property taxes. In Missoula county, the air pollution control board has been using and sharing the health fund mill levy for the past 15 years. It has resulted in the fact that one-fifth of the 5-mill levy of the health fund is used for air pollution control purposes. It was not to be used for this in the first place and it has put a burden on the health fund. In Cascade county, they do not use this fee because of the amount of money they receive from the air pollution control board. The fee is a local option. It can be imposed only in those counties or portion of those counties that have air pollution programs.

Hal Robbins, representing the Department of Health, Helena, stated the department would like to go on record in support of this legislation.

is that the county assessor has to go to the county treasurer for this information.

PROPONENTS: Joanne Peres, president of the Clerk and Recorders Association, from Choteau county, said there is no controversy in this bill. They are simply adding language that they are in the computer age, and this bill simply includes computers in the language.

OPPONENTS: There were no opponents present.

DISCUSSION OF HOUSE BILL NO. 373: There was no discussion by the committee members; therefore, Rep. Nathe closed the hearing.

CONSIDERATION OF HOUSE BILL NO. 277: Rep. Manuel of District 11, sponsor of the bill, explained he is presenting it by request of the Crime Control Board. The title says it allows that several counties acting together may provide for the jail required by establishing in the county government the position of jail administrator and, with the sheriff's concurrence, hiring a person, who is answerable to the governing body of the county, to fill the position; or entering into an agreement with a private party under which the private party will provide, maintain, or operate the jail.

PROPONENTS: Jerry Johnson, chairman of the Jails Subcommittee of the Board of Crime Control, stated he wanted the committee to know this was an extremely difficult bill to work on as it is complex. Its main concern is to give aid and assistance to sheriffs across the state, and assist in liabilities of jails. They don't object to amendments if there are any. He passed out a fact sheet from the Montana Board of Crime Control (exhibit 1). He also presented a letter from Sheriff Raymond J. Froehlich of Missoula county, who died yesterday. Sheriff Froehlich had some concerns about the bill, which he listed in his letter (exhibit 2), which Mr. Johnson read. Mr. Johnson said they feel this bill is a good attempt at this time and it is a starting place that they should be able to build on in the future. They are willing to work with the sheriff's office or any other group.

Lieutenant Governor George Turman, read a brief excerpt of his written testimony (exhibit 3) which he passed out. He said the adequecy of jail facilities is a priority issue with local governments.

Harold Hanser, County Attorney of Yellowstone county, said he first became interested in private sector jail operations when they were trying to build a jail facility. The scheme of this legislation is nothing new or startling. The basic concept was enacted in New Mexico. The most critical single problem facing local government today is the jail situation.

This proposal opens up the opportunity to finance at the lowest cost to the taxpayer. The secondary impact of this bill is the ability to transfer responsibility to enable government to fix costs. There is no fiscal note attached to it. Montana started up in their prison system by private sector, and it is time we went back and looked at the good things we had and pick them up. It is a better way to do business and we ought to take advantage of it. He urged the committee's favorable support of HB 277.

Mark Murphy, of the attorney general's office and representing the Board of Crime Control, said the part of the bill he would like to offer testimony for is the new section. The purpose is to allow contracts at local levels, and it is not a new concept. It allows the Board of Crime Control to be an agent for a person. The second part of the testimony would be the area of multiple county jails. It is one of the most important parts of the bill, where there would be a joint jail among the rural jails in the county. One of the problems of the bill which was drafted was allowing a county to expend revenue from one county and spending it in another county.

John Fitzpatrick of Mountain International, Helena, stated he is here to endorse HB 277. It is important to provide flexibility for county jails in Montana. Under the current law there is difficulty for administering and also there are problems in multiple county facilities for spending money outside of the boundaries. In allowing contracts with private parties, it is a management option for administering their facilities.

Gordon Morris, Montana Association of Counties (MACo), said they want to go on record as supporting HB 277, and they worked on putting this bill together. On page 9, line 7 was overlooked in the present code, and section 2 has been dropped. He wanted to suggest bringing back section 2. They support the bill, it is a high priority bill, and they would like a Do Pass.

OPPONENTS: Pete Howard, Teton County Sheriff, said he has some problems with some of the amendments. He said he would like to make the committee very much aware that alternatives are very much needed, as are new ideas. For the most part, most of the county jails in Montana are outdated. A good share of statutory laws for operating jails are old. They can't meet the mandates of the courts working with laws 35 years old. The concept is good, but he does not believe in the bill as it is written. He referred to page 3, lines 12 to 20. The private jail administrator would have the same powers as the sheriff. Page 6, line 7, explains the duties the sheriff is expected to perform, and this would make two sheriffs, one in the jail and one on the road. This should be stricken from the bill. Law enforcers should be investi-

gators and enforcers of the law, and private personnel can't do it. Privates should not be allowed to investigate crimes or use deadly weapons. If a private were to pursue a car, would they be concerned with safety? He stated the bill needs alternatives, and the way it is written it doesn't accomplish what needs to be done. More time is needed to write the bill. Without considerable changes to the bill, please consider it a Do Not Pass.

Walter Hammermeister, Pondera County Sheriff, stated he and Sheriff Howard are strong supporters of allowing counties to build jails. They think the concept is good, but where it falls down is transferring statutes from New Mexico to Montana. This bill needs so many amendments that he wants to kill it and send it back to the Crime Control Board. This bill tries to provide that counties will be held harmless from debts. The sheriff still has personal liability for the action of the jail administrator in the jail. Page 9, lines 20 and 21, Page 10, line 25, and page 11, lines 17 and 18, allow sheriffs to be held liable for jail administrators. He stated they oppose this bill because it changes the bonded issues for jails. This bill allows county commissioners to put indebtedness on the private people and they do not get the right to vote for bonded indebtedness. They strongly object to bonding to 12 1/2% above the 23% of the taxable value of the property without letting the public vote. He recommended the bill be killed and put into further study and be reborn two years from now.

Curt Petty, Vice President of the Montana Sheriffs and Peace Officers, stated he is opposed to the bill and requests the bill be killed in committee.

In closing, Rep. Manuel stated they are not trying to ram it down the committee's throat, and he suggested putting it to a subcommittee.

DISCUSSION OF HOUSE BILL NO. 277: Rep. Fritz asked Rep. Manuel if he thought the objections raised by the sheriffs of questioning jurisdiction is beyond repair, and the answer was no, but he would like to give it a try with a subcommittee.

Rep. Sands asked Mr. Hanser if a private jail would be entitled to immunity from liabilities. It would be a definite advantage to have insurance coverage. Mr. Hanser answered that the $150,000 precludes any type of lease purpose. The three year limitation of operation for private parties is a control. By going to the vote of the people, it would preclude Montana from taking advantage of private sector.

Rep. Sands then asked if it can't be possible to limit proposals where it applies only for long term leases, and only after the elector has the privilege to vote if they want a

long term jail. The question is whether to give local governments the opportunity of using private sector. The operation contract cannot exceed three years. Mr. Hanser replied that in New Mexico the jails presented such horrendous problems to local government and gave local government the authority to take care of the private sectors. It is not true that a sheriff is held liable. He wished the committee to look at the total concept of the bill. It can open up the opportunity for local governments to save money for the taxpayers.

Rep. Kadas addressed Mr. Murphy that he had mentioned some problems with indebtedness in this bill. Mr. Murphy answered that page 5, section 7-7-2221 states any money raised through a bond must be spent in the county where the money is raised. If a jail is in one county and four or five counties are sharing that jail, the money must be spent in the county where the jail is.

Rep. Kadas then asked about the minimum standard for training of jailers, and he was answered that Sheriff Froehlich's letter stated the jailers should go through the academy. However, Mr. Johnson said he is personally concerned and would recommend following Rep. Manuels' suggestion and putting it to a subcommittee and get it corrected if possible.

Rep. Kadas also stated to Sheriff Howard that most of us feel this is a good concept and would like to work with him. He asked Sheriff Howard if he would be willing to sit down and work with the committee, to which Sheriff Howard answered yes.

Rep. Wallin asked Mr. Hanser how to deal with the cost of a lease when dealing with the only guy in town who has a lease. Mr. Hanser answered that he doesn't see it as any different kind of a contract than in any other situation. Rep. Poff also addressed Mr. Hanser. He said that a private party must have insurance, and if that private party has a problem everyone would be named on the document. Under this situation, the insurance contract is with the private sector and they would be the ones paying, not the county.

Rep. Hansen addressed Mr. Hanser and said there are two concepts that bothered her. The first was the duties of the sheriff. The sheriff is an elected official. It is not right to elect him and have him give duties to others. She grew up by the prison in Deer Lodge and it bothers her that the private sector is making money from the prisoners. Mr. Hanser replied that whether or not the language is right, no one would expect the private sector to become the sheriff. The real question is should the taxpayers pay more money to take care of the prisoners or should the private sectors make money from the prisoners.

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 7, 198

NAME	PRESENT	ABSENT	EXCUSED
Paula Darko, Chairman	X		
Norm Wallin, Vice Chairman	X		
Ray Brandewie	X		
Dave Brown	X		
Harry Fritz	X		
Stella Jean Hansen	X		
Bob Gilbert	X		
Mike Kadas	X		
Les Kitselman	X		
Paul Pistoria	X		
Bing Poff	X		
Walter Sales	X		
Jack Sands	X		
Dean Switzer	X		

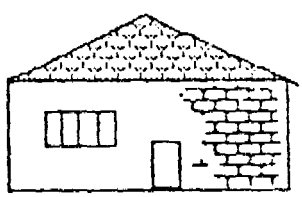
Please attach to minutes.

19

Exhibit
HB 277
2-7-85
Rep. Manu

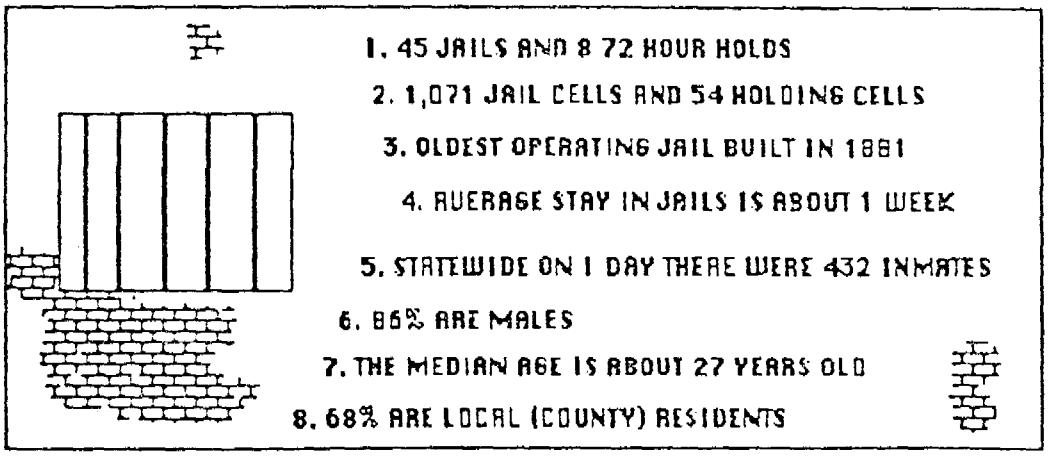
JAILS

HB 277



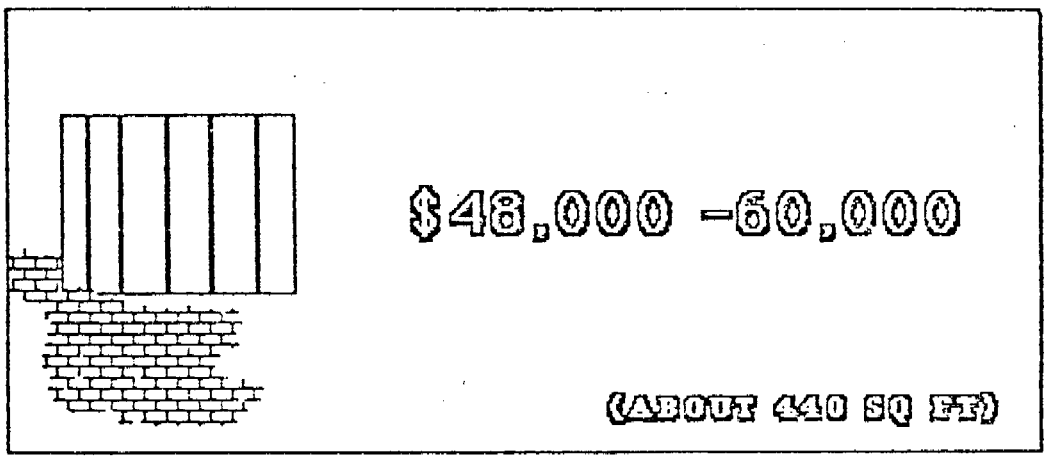
2

MONTANA JAIL FACTS


1. 45 JAILS AND 8 72 HOUR HOLDS
2. 1,071 JAIL CELLS AND 54 HOLDING CELLS
3. OLDEST OPERATING JAIL BUILT IN 1881
4. AVERAGE STAY IN JAILS IS ABOUT 1 WEEK
5. STATEWIDE ON 1 DAY THERE WERE 432 INMATES
6. 86% ARE MALES
7. THE MEDIAN AGE IS ABOUT 27 YEARS OLD
8. 68% ARE LOCAL (COUNTY) RESIDENTS

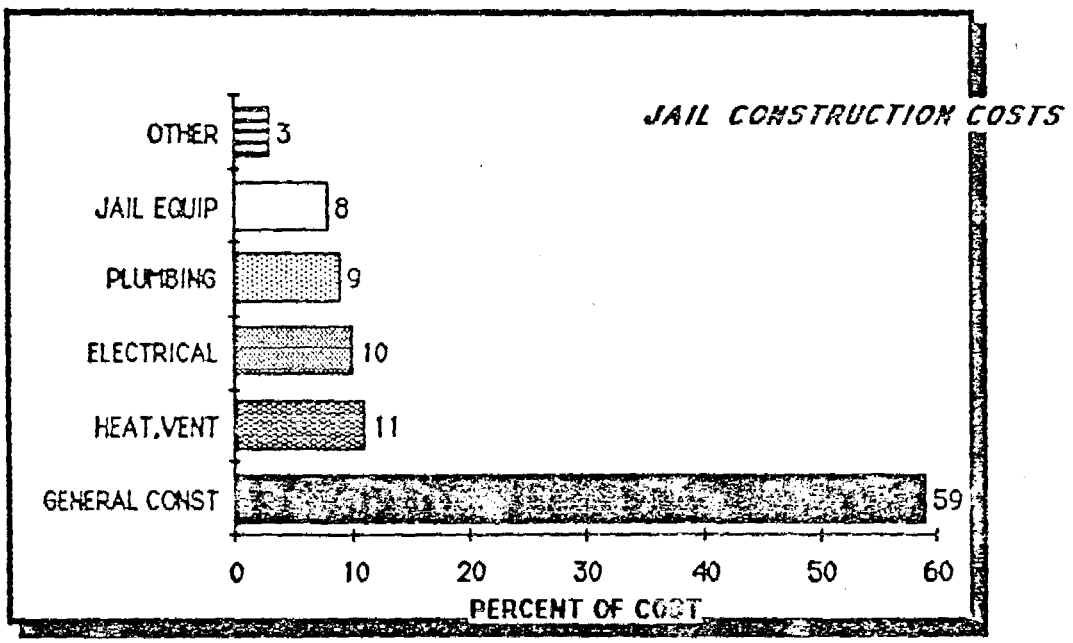
SOURCE: MONTANA BOARD OF CRIME CONTROL

JAIL CONSTRUCTION COSTS PER CELL



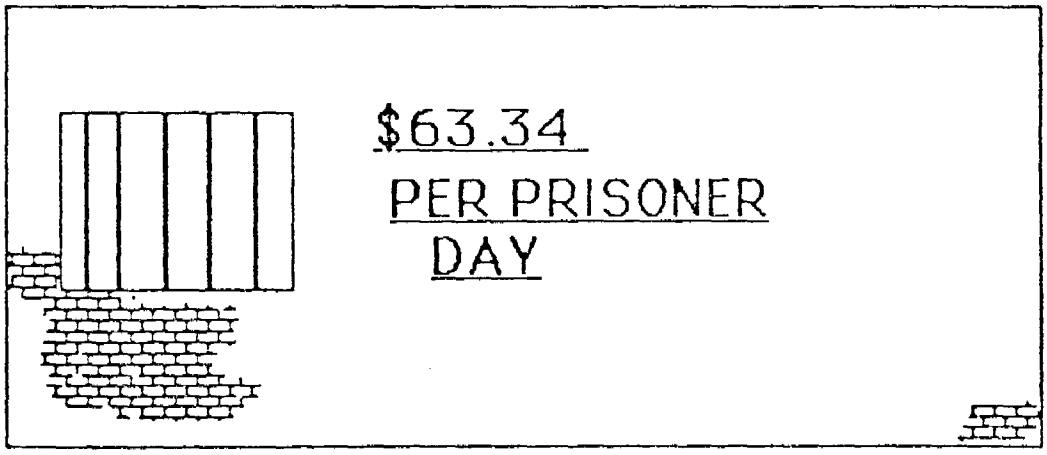
SOURCE: COST OF CONSTITUTIONAL JAILS 1982

THE COST OF JAIL CONSTRUCTION



source: Cost Of Constitutional Jails-1982

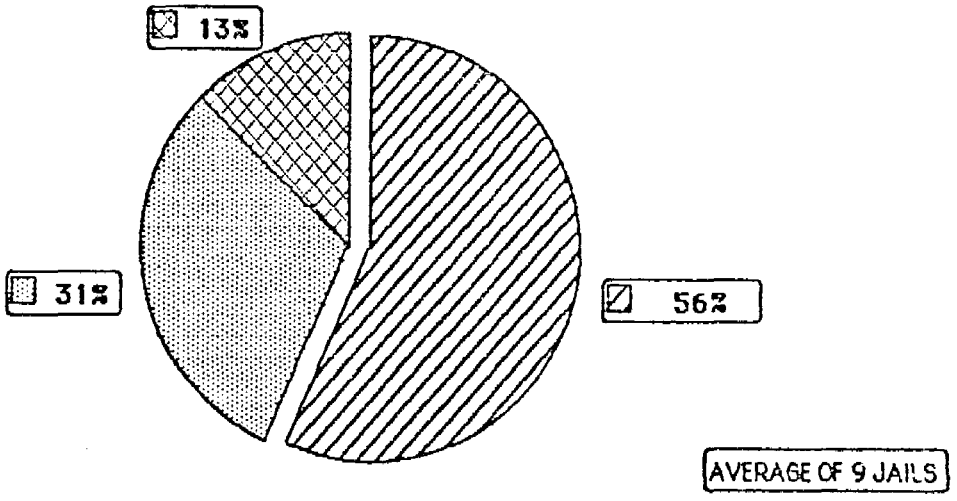
DAILY JAIL OPERATIONS COSTS



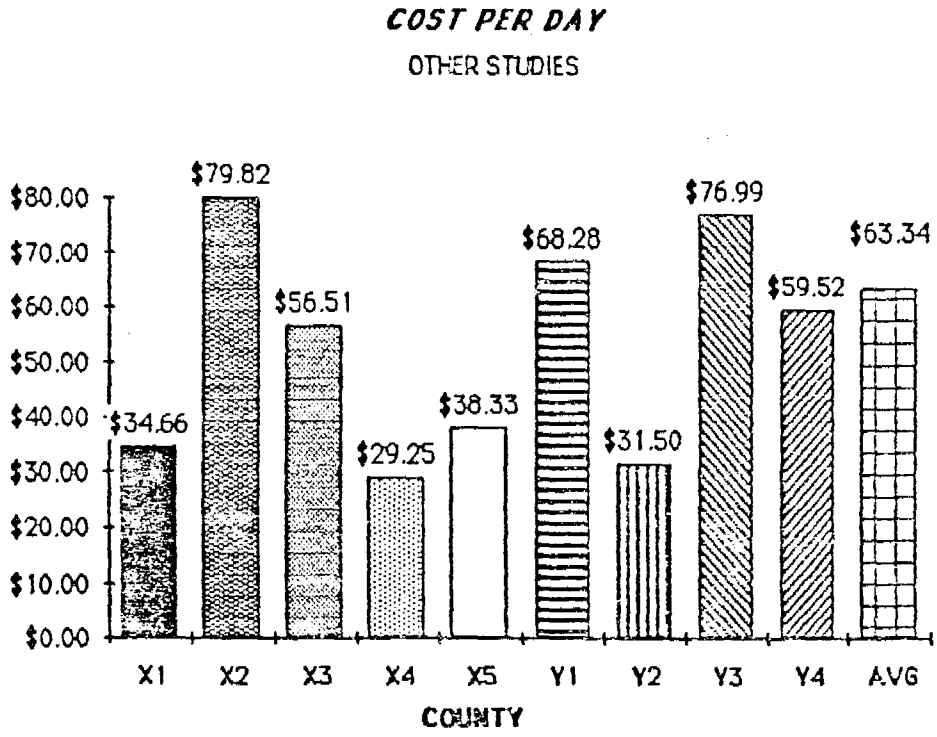
SOURCE: 9 MONTANA JAILS-1984 : MBCC

NINE COUNTY JAILS--1984

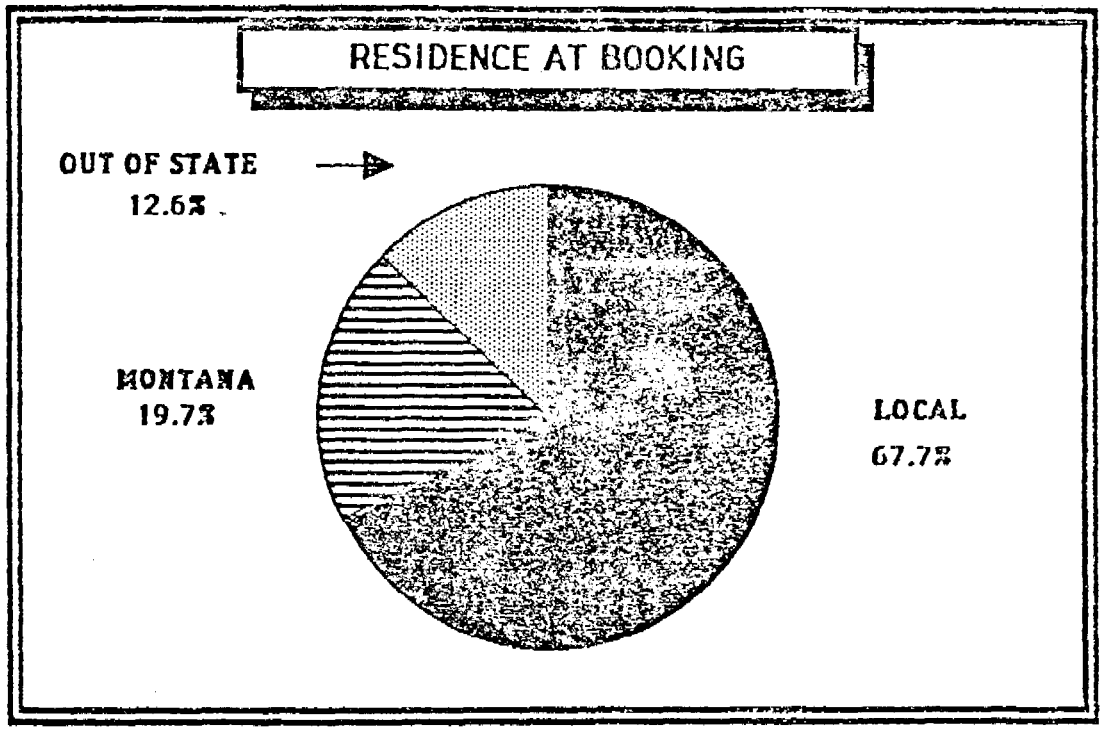
JAIL EXPENSES

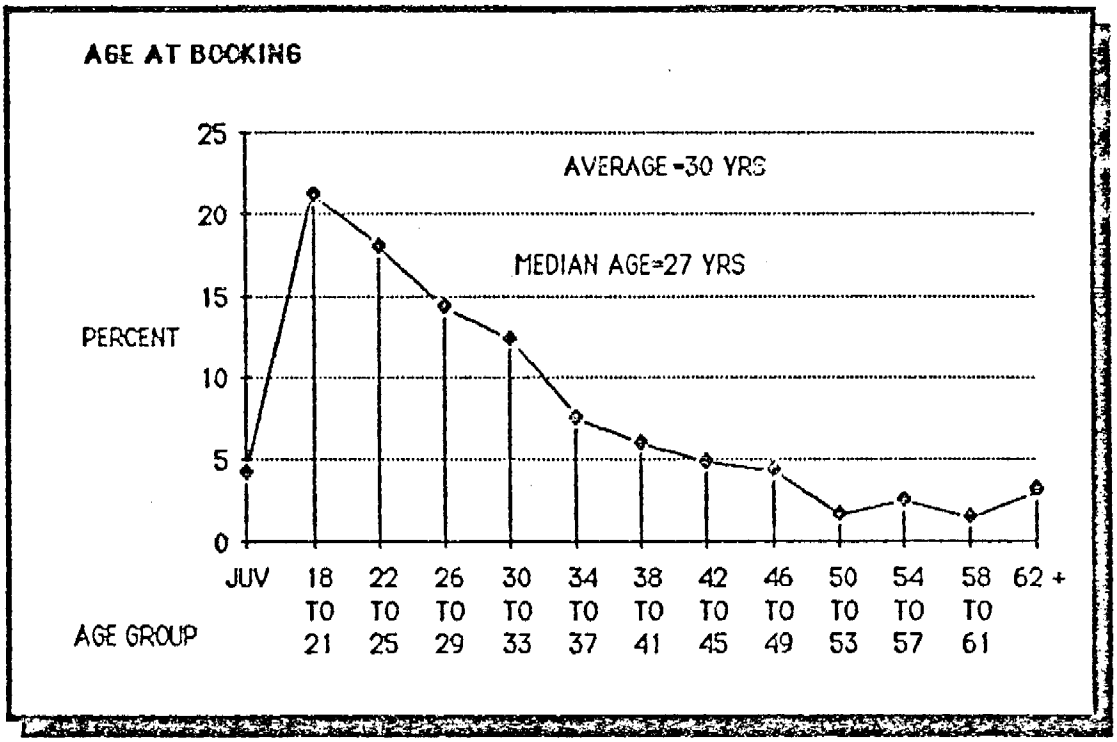


NINE COUNTY JAILS--1984 other studies

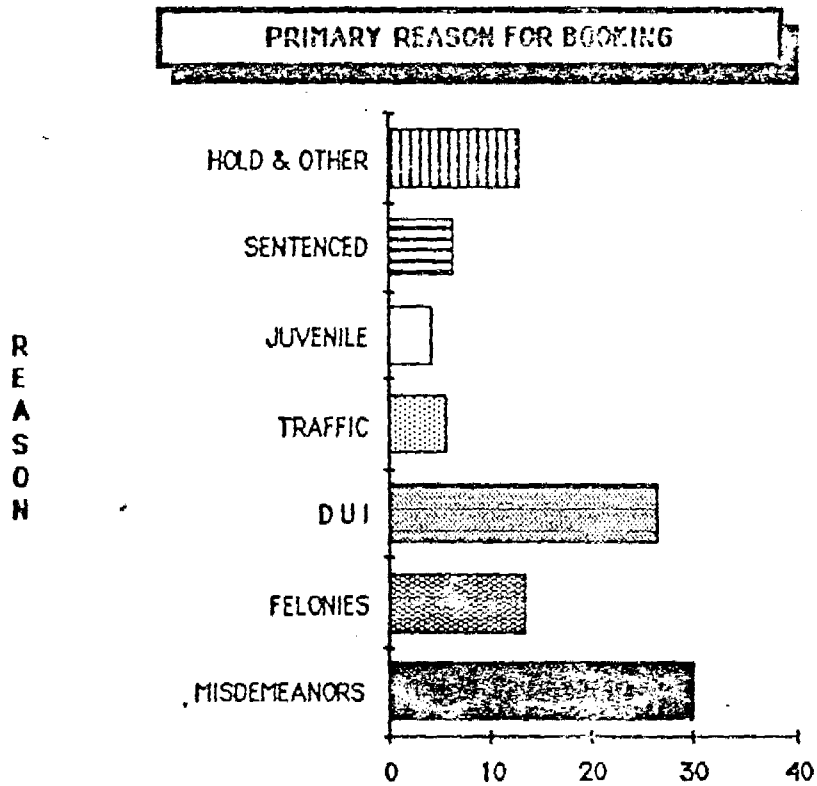


NINE COUNTY JAILS--1984

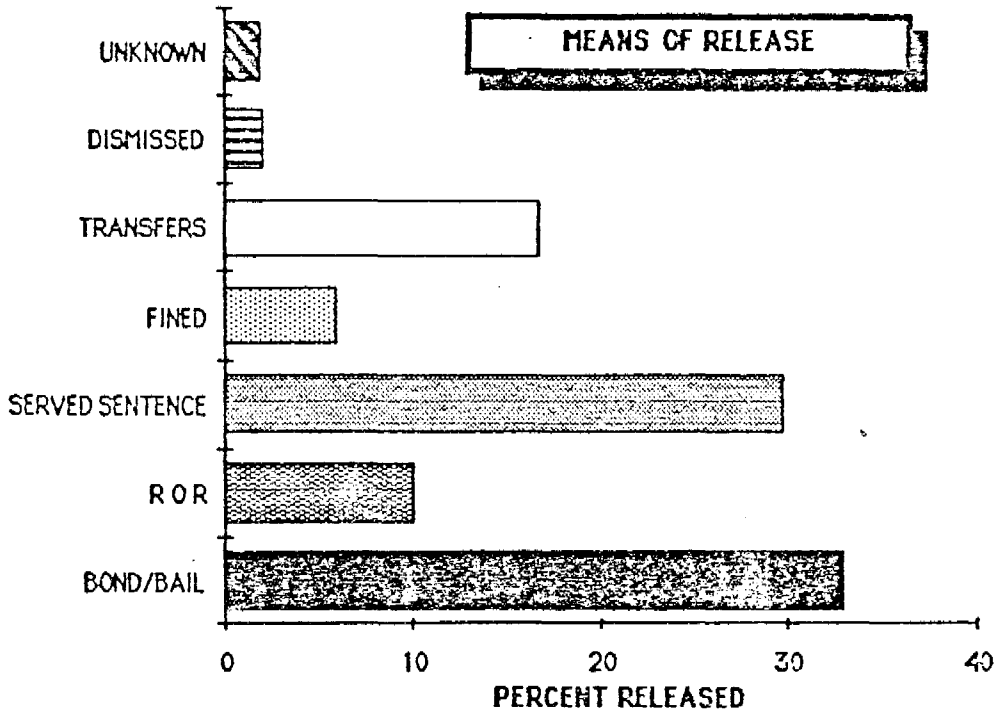



AGE AT BOOKING
AVERAGE=30 YRS
MEDIAN AGE=27 YRS
PERCENT
25
20
15
10
5
0
JUV
18 TO 21
22 TO 25
26 TO 29
30 TO 33
34 TO 37
38 TO 41
42 TO 45
46 TO 49
50 TO 53
54 TO 57
58 TO 61
62 +
AGE GROUP

NINE COUNTY JAILS--1984



NINE COUNTY JAILS--1984



LENGTH OF STAY

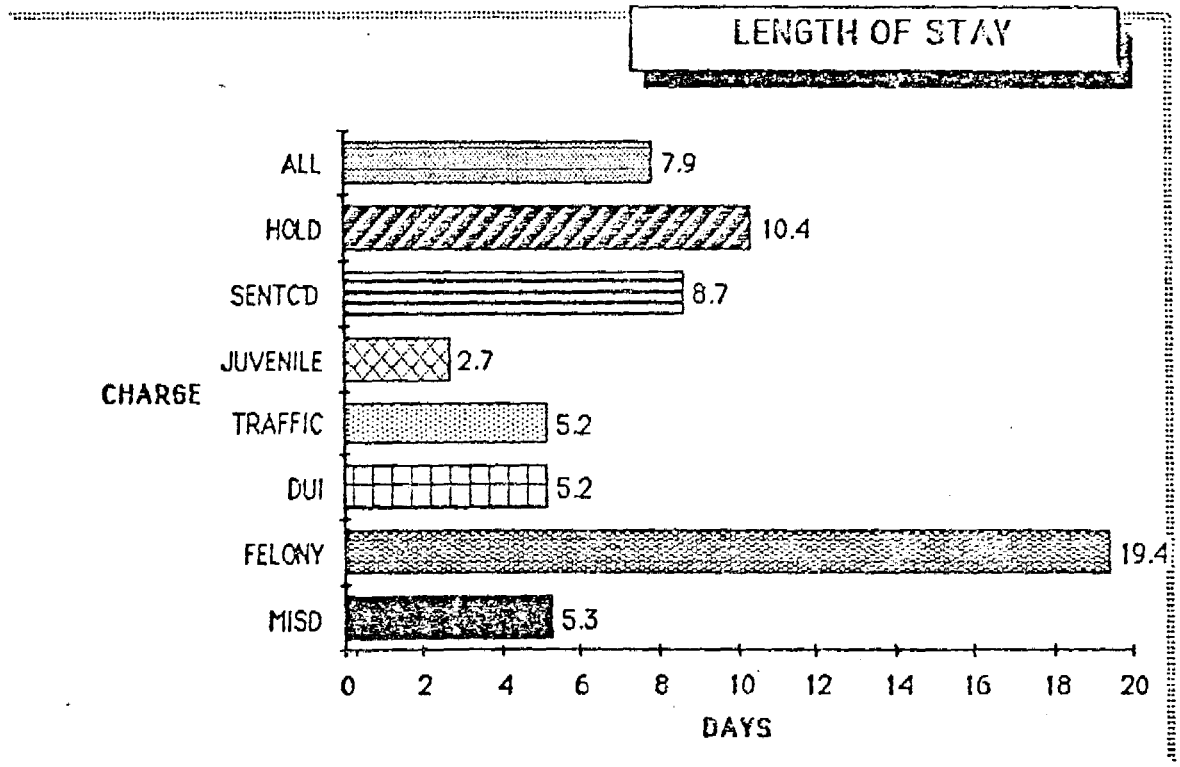


Exhibit 5
HB 277
2-7-85
Rep. Manuel

MISSOULA COUNTY

OFFICE OF THE SHERIFF
COUNTY COURTHOUSE
MISSOULA, MONTANA 59802
(406) 721-5700

RAYMOND J. FROEHLICH
SHERIFF

DANIEL L. MAGONE
UNDERSHERIFF

January 30, 1985

RECEIVED
JAN 30 1985
MISSOULA COUNTY COMMISSIONERS

The Board of County Commissioners
Missoula County Courthouse
Missoula, Montana 59802

RE: House Bill #277

Dear Members of the Board:

Reference your request that I review the above listed bill and give you my comments on it I offer the following. After Consultation with Sheriff Pete Howard, Teton County, I was advised that this bill was drafted by a twenty-five person committee of the Board of Crime Control with two sheriffs serving on it. And while it was supposed to also have two commissioners serving on said committee, the two selected did not participate for one reason or another. At a meeting some time last fall, the discrepancies which I will later note were presented to the committee and Harold Hanser, County Attorney for Yellowstone County, was to have addressed the questions which I posed concerning the bill and do the necessary background work and changes prior to it being introduced into the House. However apparently he failed to do this in that the bill was introduced almost exactly as it was proposed.

I think the bill has merit specifically with respect to alternative funding as it pertains to a jail but not in its present form and it may be too late to make the necessary changes prior to the close of the Legislature. If it is impossible to address the changes as noted, then I would recommend that we oppose it. The discrepancies which I noted are as follows:

On page 1, line 21, subparagraph (a) the words "policies and procedures" should be substituted for the word standards.

On page 2, line 5, subparagraph (e) should note something to the effect that "private parties will ensure training of jailers to conform with standards and/or curriculum set by the Montana Law Enforcement Academy or the State of Montana." With the advent of this type of language, we would then probably need a provision for these people in the private sector to be able to attend the Law Enforcement Academy at their own expense in that currently private parties are not allowed to.

32

Page 3, line 12, NEW SECTION 3, "jail administrator or a private party--------have the powers and duties of sheriff." This portion is too broad to give these administrators the powers of sheriffs and it would also give them the authority to investigate crimes in the jail, designate who may carry a concealed weapon, and perhaps other areas which I have not thought of. I would suggest that this portion be patterned after the powers granted guards at Montana State Prison however, I have not had the time to research this so I do not know if it is feasible.

Page 4, line 3 - 10. This language allows a county to incur indebtedness of up to 12½ percent of the taxable value of the property of the county for the construction or improvement of a jail. In Missoula County this would amount to approximately $15,000,000 plus and my question is would this language prevent us from building a multipurpose building such as was proposed for Missoula County without going to a bond issue? Obviously we could use that money for the actual construction of a jail but would it also be construed that the supporting structure such as Sheriff and Police Department and/or Courts be allowed to fall within this category because it would be a part of the integral structure?

Page 13, line 16 - 20. This conflicts with current House Bill 108 which will raise the fee for holding prisoners to $30.00 per day or the actual cost, whichever is the lesser.

Page 14, line 22 - 25, the same comment as noted on page 13.

I have not had an opportunity to consult with either John DeVore or Mike Sehestedt regarding House Bill 277 but those are my thoughts and comments on this bill.

Sincerely,

Raymond J. Froehlich

RAYMOND J. FROEHLICH
SHERIFF

RJF/ms

Exhibit 1
HB 277
2-7-85
Rep. Manuel

State of Montana
Office of The Lieutenant Governor
Helena 59620
(406)444-3111

GEORGE TURMAN
LIEUTENANT GOVERNOR

STATEMENT OF LT. GOVERNOR GEORGE TURMAN
BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE
HB277, PRIVATE OPERATION OF JAIL FACILITIES
THURSDAY, FEBRUARY 7, 1985

Representative Darko and members of the Committee:

I appreciate the opportunity to appear in support of HB277, the intent of which is to give local officials flexibility in addressing the issues of jail construction, operation and maintenance. This bill does not provide state assistance.

From my work with the Governor's Task Force on Infrastructure, I know that the adequacy of jail facilities is a priority issue with local governments. I know also from that Task Force experience that those who have addressed the issue--on behalf of the state, local jurisdictions and concerned citizens--are well qualified to make the recommendations embodied in this bill.

HB277 is the product of extensive investigation, research and analysis by the Jails Subcommittee of the Board of Crime Control, chaired by Jerry Johnson, and by the team which participated in the Task Force on Infrastructure. The groups were served ably by Steve Nelson and Ed Hall of the Board of Crime Control staff.

Both the jails subcommittee and the task force team reached this conclusion: local officials need greater latitude if they are to address successfully the manifold problems associated with jail facilities.

With respect to the substance of HB277, I would make these observations: The circumstances of Montana's communities and counties vary greatly. In that regard, it is impossible as well as inappropriate to attempt to prescribe uniform solutions. To me it follows logically from the fact of our diversity that those who have the responsibility to meet local needs should have options which allow them to consider local conditions.

In effect, local governments have been saying to those of us in state government what we have often said to the federal government: allow us to manage our own affairs.

In these difficult times, people are asking government officials to be innovative and cost-conscious. At the least, in the matter of jail facilities we should give local officials the flexibility which would be provided under HB277.

HOUSE OF REPRESENTATIVES

DATE February 7, 1985

Mr. Speaker

We, your committee on Local Government having had under consideration House Bill No. 277 entitled "AN ACT ALLOWING COUNTIES TO ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING OF JAILS AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING LIMITATIONS; AND AMENDING SECTIONS 7-7-2101, 7-7-2203, 7-7-2221, 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201, 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209, 7-32-2212, 7-32-2221, AND 7-32-2222, MCA," respectfully report as follows: That House Bill No. 277, as introduced, be amended as follows:

(1) Amend title

1. Title, line 8
   Following: "OR OPERATE JAILS"
   Insert: "OR YOUTH DETENTION FACILITIES"

2. Title, line 8 and 9
   Following: "FINANCING OF JAILS"
   Insert: "AND YOUTH DETENTION FACILITIES"

3. Title, line 9
   Following: "IMPROVEMENT OF JAILS"
   Insert: "AND YOUTH DETENTION FACILITIES"

(2) Insert material only

1. Page I, line 19.
   Following: "7-32-2201"
   Insert: "or 41-5-802(1)"

2. Page 1, line 22.
   Following: "prisoners"
   Insert: "or the operation of a youth detention facility for the detention of delinquent youths and youths in need of supervision"

3. Page 2, line 2.
   Following: "jail"
   Insert: "or the youth detention facility;"

4. Page 2, line 5.
   Following: "jailers"
   Insert: "or the staff of a youth detention facility"

5. Page 2, line 12.
Following: "7-32-2201"
Insert: ", 41-5-802(1),"

6. Page 2, line 15.
Following: "7-32-2201"
Insert: ", 41-5-802(1),"

7. Page 2, line 19.
Following: "type of jail services"
Insert: "or youth detention facility"

8. Page 2, line 24.
Following: "jail services"
Insert: "or services of a youth detention facility"

9. Page 3, line 5.
Following: "jail services"
Insert: "or the youth detention facility"

10. Page 4, line 7.
Following: "jail"
Insert: "or a youth detention facility"

11. Page 4, line 10.
Following: "of a jail"
Insert: "or a youth detention facility"

12. Page 5, line 10.
Following: "of a jail"
Insert: "or a youth detention facility"

13. Page 6, line 5.
Following: "of a jail"
Insert: "or a youth detention facility"

14. Page 17, line 16.
Insert: "Section 20. Section 41-5-802, MCA, is amended to read:

"41-5-802. Shelter care and detention facilities. (1)(a) In all counties the county commissioners may provide, by purchase, lease, agreement with a private party, pursuant to (Section 1), or otherwise, a place to be known as the youth detention facility, which shall not be used for the confinement of adult persons charged with criminal offenses, where delinquent youths and youths in need of supervision may be detained until final disposition~~, which place shall be maintained by the county as in other like cases~~.

(b) Except when staff is provided in an agreement with a private party pursuant to section 1 the judge having jurisdiction may appoint such personnel as required, who shall have charge of said facility and of the youths detained therein.

(c) Except when compensation is fixed in an agreement with a private party pursuant to section 1 , the compensation of such personnel shall be fixed by the court, and such compensation and the maintaining of such facility shall be paid out of the county treasury which may be supplemented by state appropriations and federal funds.

(2)(a) Youth courts and nonprofit corporations may provide by purchase, lease, or otherwise, a place to be known as a shelter care facility.

(b) Such facility shall be physically unrestricting and may be used to provide shelter care for youth alleged or adjudicated delinquent, in need of supervision, or in need of care.

(c) Such facility shall be separate and apart from any facility housing adults charged with criminal offenses.

(d) State appropriations and federal funds may be received by the youth court or private nonprofit corporations for establishment, maintenance, or operation of such facility.

(e) Such facility shall be furnished in a comfortable manner and be as nearly as possible like a family home."

H. Local Govt. 2/7
3:00 129

HOUSE BILL NO. 277

INTRODUCED BY Bianchi

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING OF JAILS AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING LIMITATIONS; AND AMENDING SECTIONS 7-7-2101, 7-7-2203, 7-7-2221, 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201, 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209, 7-32-2212, 7-32-2221, AND 7-32-2222, MCA."

7-32-2201

Part 22

County Jails

SECTION 1.

7-32-2201. County jail required. (1) A jail shall be built or provided and kept in good repair at the expense of the county in each county, except that whenever in the discretion of the commissioners of two or more counties it is necessary or desirable to build, provide, or utilize a common jail, they may do so in any city or town located within one of the counties so concerned. Such common jail shall be built or provided and kept in good repair at the expense of the counties concerned on a basis as the commissioners of the counties shall agree.

(2) The common jails in the several counties of this state are kept by the sheriffs of the counties in which they are respectively situated. In the case of more than one county utilizing a common jail as provided in subsection (1), such jail shall be kept by the sheriffs of the counties utilizing the common jail on a basis as the sheriffs shall agree.

BY A JAIL ADMINISTRATOR & PRIVATE CONTRACTOR"

(3) The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to cause a jail to be erected, furnished, and maintained.

History: (1)En. 16-2802.1 by Sec. 1, Ch. 193, L. 1973; Sec. 16-2802.1, R.C.M. 1947; (2)En. Sec. 3022, Pen. C. 1895; re-en. Sec. 9759, Rev. C. 1907; re-en. Sec. 12468, R.C.M. 1921; Cal. Pen. C. Sec. 1597; re-en. Sec. 12468, R.C.M. 1935; amd. Sec. 2, Ch. 193, L. 1973; Sec. 16-2803, R.C.M. 1947; (3)En. Subd. 9, Sec. 1, Ch. 100, L. 1931; re-en. Sec. 4465.8, R.C.M. 1935; amd. Sec. 1, Ch. 56, L. 1947; amd. Secs. 1, 2, Ch. 238, L. 1947; amd. Secs. 1, 2, Ch. 5, L. 1949; amd. Sec. 1, Ch. 76, L. 1957; amd. Sec. 1, Ch. 150, L. 1959; amd. Sec. 1, Ch. 130, L. 1973; Sec. 16-1008A, R.C.M. 1947; R.C.M. 1947, 16-1008A(part), 16-2802.1, 16-2803(part).

Cross-References
General authority of County Commissioners, 7-5-2101.
Interlocal agreements, Title 7, ch. 11, part 1.

(2) A county, or two or more counties acting together, may provide for the jail required by subsection (1) by:

(a) establishing in the county government the position of jail administrator and, with the sheriff's concurrence, hiring a person, who is answerable to the governing body of the county, to fill the position; or

(b) entering into an agreement with a private party under which the private party will provide, maintain, or operate the jail.

38

{2}(3) The common jails in the several counties of this state are kept by the sheriffs, jail administrators, or private parties agreeing to act as jailers of the counties in which they are respectively situated. In the case of more than one county utilizing a common jail as provided in subsection (1), such jail shall be kept by the sheriffs of the counties utilizing the common jail on a basis as the sheriffs shall agree, by a jail administrator hired by the county in which the jail is situated, or by a private party agreeing to act as the jailer.

{3}(4) The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to cause a jail to be erected, furnished, and maintained."

NEW SECTION. Section 1. County jails -- contracts with private parties. (1) The term of an agreement under 7-32-2201 with a private party may not exceed 3 years.

(2) The agreement must include:

(a) detailed standards for the operation of the jail and the incarceration of prisoners;

(b) a performance bond from the private party acceptable to the county;

(c) a promise from the private party to indemnify the county for any damages for which the county is found liable as a result of the operation of the jail;

(d) a provision that the private party must purchase liability insurance in an amount acceptable to the county;

(e) minimum standards for the training of jailers and a provision that the private party will ensure such training; and

(f) a provision that the county may immediately terminate the contract for good cause.

(3) The provisions of Title 7 relating to bids for county contracts and purchases do not apply to a contract entered into under 7-32-2201 and this section.

NEW SECTION. Section 2. Requests for contract proposals. (1) A county seeking to enter into a contract under 7-32-2201 and [section 1] may publish a request for proposals. The request for proposals must be published in a newspaper of general circulation in the county once a week for 3 successive weeks and must include information concerning the type of jail services required.

(2) Requests for proposals must be sent to persons who have previously requested that their names be placed on a list of persons providing jail services. The Montana board of crime control shall maintain a list of persons providing jail services and furnish the list to a county upon request.

(3) In selecting a proposal and awarding a contract, a

INTRODUCED BILL
HB 277

county need not accept the proposal with the lowest cost.

(4) The county must base its selection on demonstrated competence, knowledge and qualifications, the reasonableness of the services proposed, and the reasonableness of the proposed contract price for the jail services.

(5) A copy of all proposals must be kept available for public inspection in the office of the county clerk and recorder.

(6) The county must give specific reasons for its selection of a proposal. The reasons must be recorded in the minutes of the governing body of the county.

NEW SECTION. Section 3. Powers of jail administrators and private party jailers. A jail administrator or a private party acting as a jailer under an agreement, as provided for in 7-32-2201(2), and his assistant jailers have the powers and duties of sheriffs:

(1) within the confines and grounds of the jail; and

(2) outside the jail confines and grounds while transporting any prisoner or in the pursuit or apprehension of any escapee.

Section 4. Section 7-7-2101, MCA, is amended to read:

"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 23% of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, except that an additional indebtedness of up to 12.5% of the taxable value of the property in the county subject to taxation may be incurred for the construction or improvement of a jail.

(2) No county may incur indebtedness or liability for any single purpose, except for the construction or improvement of a jail, to an amount exceeding $150,000 without the approval of a majority of the electors thereof voting at an election to be provided by law, except as provided in 7-21-3413 and 7-21-3414."

Section 5. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) and ~~(3)~~ through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the taxable value of the property therein, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) A In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding

40

bonds-and-warrants;-will-exceed-11.25%-nor will not exceed 3% 25.75% of the taxable value of such--property the property in the county subject to taxation, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail, which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

~~(3)~~(4) The ~~foregoing~~ limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Section 6. Section 7-7-2221, MCA, is amended to read:

"7-7-2221. Issuance of certain general obligation bonds without election. Bonds may be issued without submitting the same to an election if the bonds are issued for the purpose of:

(1) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of a county boundary line, as set forth in 7-7-2201(5); and

(2) funding, paying in full, or compromising, settling, and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, as set forth in 7-7-2202~~.~~; and

(3) construction or improvement of a jail."

Section 7. Section 7-32-2121, MCA, is amended to read:

"7-32-2121. Duties of sheriff. The sheriff must:

(1) preserve the peace;

(2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

(3) prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

(4) perform the duties of a humane officer within the county with reference to the protection of dumb animals;

(5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the county jail and the prisoners therein, unless the jail is operated by a private

party under an agreement entered into under 7-32-2201 or by a jail administrator;

(8) endorse upon all notices and process the year, month, day, hour, and minute of reception and issue therefor to the person delivering them, on payment of fees, a certificate showing the names of the parties, the title of the paper, and the time of reception;

(9) serve all process or notices in the manner prescribed by law;

(10) certify in writing upon the process or notices the manner and time of service or, if he fails to make service, the reasons of this failure, and return the papers without delay;

(11) take charge of and supervise search and rescue units and their officers whenever search and rescue units are called into service; and

(12) perform such other duties as are required by law."

Section 8. Section 7-32-2123, MCA, is amended to read:

"7-32-2123. Appointment of deputy sheriff to act as jailer. The A sheriff who operates a county jail may appoint two deputies in counties of the first, second, or third class and one deputy in counties of the fourth, fifth, sixth, or seventh class who shall act as jailer and receive the same salary as other deputy sheriffs."

Section 9. Section 7-32-2132, MCA, is amended to read:

"7-32-2132. Liability for escape in civil actions. (1) A sheriff, jail administrator, or private party jailer who fails to prevent the escape or rescue of a person in his custody arrested in a civil action without the consent or connivance of the party in whose behalf the arrest or imprisonment was made is liable as follows:

(a) When the arrest is upon an order to hold for bail or upon a surrender in exoneration of bail before judgment, the sheriff, jail administrator, or private party jailer is liable to the plaintiff for the bail.

(b) When the arrest is on an execution or commitment to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the amount expressed in the execution or commitment.

(c) When the arrest is on an execution or commitment other than to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the actual damages sustained.

(2) Upon being sued for damages for an escape or rescue of a person in his custody, the sheriff, jail administrator, or private party jailer may introduce evidence in mitigation or exculpation.

(3) An action may not be maintained against a sheriff, jail administrator, or private party jailer for a rescue or for an escape of a person arrested upon an execution or

42

commitment if, after his rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff, jail administrator, or private party jailer."

Section 11. Section 7-32-2202, MCA, is amended to read:

"7-32-2202. Use of jail in contiguous county. (1) When there is no jail in the county or when the jail becomes unfit or unsafe for the confinement of prisoners, the district judge may, by written appointment filed with the clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county (or any of them) and may at any time modify or annul the appointment.

(2) A copy of the appointment, certified by the clerk, must be served on the sheriff or of each county, and the keeper of the designated jail if the keeper is not the sheriff, who must receive into his jail all prisoners authorized to be confined therein pursuant to this section and who is responsible for the safekeeping of the persons so committed in the same manner and to the same extent as if he were the sheriff, jail administrator, or private party jailer of the county for whose use his jail is designated. With respect to the persons so committed, he is deemed the sheriff, jail administrator, or private party jailer of the county from which they were removed.

(3) When a jail is erected in the county for the use of which the designation was made or its jail is rendered fit and safe for the confinement of prisoners, the district judge of that county must, by a written declaration filed with the clerk, declare that the necessity for the designation has ceased and that it is revoked.

(4) The clerk must immediately serve a copy of the revocation upon the sheriff of each county and the keeper of the county; who jail in each county if the keeper is not the sheriff. The keeper of the jail in the designated county must thereupon remove the prisoners to the jail from which the removal was had."

Section 12. Section 7-32-2204, MCA, is amended to read:

"7-32-2204. Maintenance of county jail. (1) The county commissioners, or the private party when provided in an agreement entered into under 7-32-2201(2), have the care duty of building, inspecting, and repairing the jail and:

~~(1) must every 3 months inquire into its state or in respect to the security thereof, and the treatment and condition of prisoners; and~~

(2) must take all necessary precautions against escape, sickness, or infection.

(3) The county commissioners must inquire into the security of the jail and the condition of the prisoners every 3 months."

43

Section 13. Section 7-32-2205, MCA, is amended to read:

"7-32-2205. Confinement of prisoners. The sheriff, jail administrator, or private party jailer must receive all persons committed to jail by competent authority and provide them with necessary food, clothing, and bedding, for which he sheriffs and jail administrators, but not jailers operating a jail under an agreement provided for in 7-32-2201(2), shall submit claims for the actual expenses incurred to the board of county commissioners for their determination and, except as provided in 7-32-2207, to be paid out of the county treasury."

Section 14. Section 7-32-2206, MCA, is amended to read:

"7-32-2206. Confinement of federal prisoners. (1) The sheriff, jail administrator, or private party jailer must receive and keep in the county jail any prisoner committed thereto by process or order issued under the authority of the United States until he is discharged according to law, as if he had been committed under process issued under the authority of this state.

(2) Provision and agreement for the use of said jails and the support and subsistence of such federal prisoners shall first be made by the United States, through or by the proper officer or officers, with the board of county commissioners of the county wherein such prisoners are to be confined. Such agreement shall be in writing and contain a provision that the United States shall, upon claim presented for the county by its county clerk and recorder, pay into the county treasury of the county or to a jailer operating a jail under an agreement provided for by 7-32-2201(2) the sum of $10 per day for each and every prisoner held in the county jail upon order or commitment of the United States government or any department or officer thereof.

(3) A sheriff, jail administrator, or private party jailer to whose custody a prisoner is committed as provided in this section is answerable for his safekeeping in the courts of the United States, according to the laws thereof."

Section 15. Section 7-32-2207, MCA, is amended to read:

"7-32-2207. Confinement of persons on civil process. (1) Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff, jail administrator, or private party jailer is not bound to receive such person unless security is given on the part of the party at whose instance the process is issued, by a deposit of money, to meet the expenses for him of necessary food, clothing, and bedding or to detain such person any longer than these expenses are provided for.

(2) This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court."

414

Section 16. Section 7-32-2209, MCA, is amended to read:

"7-32-2209. Expenses of persons committed to jail by highway patrol bureau. In the event a person is committed to jail by the highway patrol bureau, department of justice, the state of Montana shall, upon claim presented for the county by the clerk and recorder, pay into the county treasury of the county or to a jailer operating a jail under an agreement provided for in 7-32-2201(2) the sum of $10 per day for each and every prisoner held in the county jail upon order or commitment of the highway patrol bureau or any

-14-

department or officer thereof. For the purposes of this section, a day shall be defined as a 24-hour period or portion thereof, beginning with the time of incarceration. Such claims upon the highway patrol bureau, department of justice, shall be paid to the various counties out of funds appropriated for that purpose."

Section 17. Section 7-32-2212, MCA, is amended to read:

"7-32-2212. Sheriff to prepare list List of prisoners. The sheriff, jail administrator, or private party jailer of each county must, on the first Monday in January and every 3 months thereafter, return to the county commissioners a certified list of the names of all prisoners in his custody on the last day of the preceding month, with the time and cause of their confinement, the length of time for which they were committed, and the number received and discharged during the preceding 3 months. In case he fails to do so, the sheriff, jail administrator, or private party jailer must not receive any compensation for the sustenance of the prisoners in his custody."

Section 18. Section 7-32-2221, MCA, is amended to read:

"7-32-2221. Segregation of prisoners -- confinement of juveniles. (1) Each county jail must contain a sufficient number of rooms to allow the sheriff, jail administrator, or

-15-

private party jailer to separately confine classes of prisoners as may be necessary to the security and safety of those prisoners and the jail.

(2) Persons who are violent, disturbed, or inebriated must not be kept or put into the same room with other prisoners, nor shall male and female prisoners (except husband and wife) be kept or put into the same room.

(3) Juveniles may be confined only under conditions that comply with 41-5-306(2)."

Section 19. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) When a county jail or building contiguous to it is on fire and there is reason to believe that the prisoners may be injured or endangered, the sheriff, jail administrator, or private party jailer must remove them to a safe and convenient place and there confine them as long as it may be necessary to avoid the danger.

45

(2) When a pestilence or contagious disease breaks out in or near a jail and the physician thereof certifies that it is likely to endanger the health of the prisoners, the district judge may by a written appointment designate a safe and convenient place in the county or the jail in a contiguous county as the place of their confinement. The appointment must be filed in the office of the clerk and

-16-

authorize the sheriff, jail administrator, or private party jailer to remove the prisoners to the designated place or jail and there confine them until they can be safely returned to the jail from which they were taken.

(3) If in the opinion of the sheriff, jail administrator, or private party jailer any prisoner, while detained, requires medication, medical services, or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the prisoner is being detained. The county attorney shall initiate proceedings to collect any charges arising from such medical services or hospitalization for the prisoner involved if it is determined the prisoner is financially able to pay."

-End-

VISITOR'S REGISTER

HOUSE Local Government COMMITTEE

BILL HB 277 DATE Feb 7, 1995

SPONSOR Rep. Manuel

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
	Conrad Mt			
W.L. Hammermeister	Pondera Co. Sheriff	Pondera Co Sheriff		X
Mark Murphy	HELENA	BOARD OF CO COMMISSIONERS		
Harold Olsen	Billings	Gall County	X	
Ed Hall	Helena	MACO	✓	
George Furman	"	INTERSTATE TASK FORCE		
L. John Austad	Bozeman	Mt Sheriffs + Peace officers		X
J.L. "Pete" Howard	Teton Co. Sheriff			✓
G. Morris	MACO		✓	
Marie McAlear	Madison Co.	MACO	✓	
Carol Lilly	Helena	MT Sheriffs + Peace Officers		X
John Fitzpatrick	Helena	Mont Law Enforcement	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 16, 1985

The meeting of the Local Government Committee was called to order by Chairman Paula Darko on February 16, 1985 at 3:00 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present, with the exception of Vice Chairman Wallin, who was excused.

Chairman Darko asked that all persons present who were going to testify be sure to sign the witness sheets.

CONSIDERATION OF HOUSE BILL NO. 746: Representative O'Connell of District 40, sponsor of HB 746, presented it to the committee. This bill authorizes an assessment option based upon water meter size to be used in assessing costs in fire hydrant maintenance districts. Rep. O'Connell stated this is a housekeeping bill, and she had the bill in Local Government two years ago. Most cities are affected. However, two years ago they forgot a mechanism as to how fees should be distributed. This bill will correct that situation by establishing the charge based on the meter size. She said Mr. Johnson, city manager of Great Falls, and Alec Hansen, representing the Montana League of Cities and Towns, would truly appreciate it if the committee would pass this bill.

Attached is exhibit 1, which is an inter-office memorandum to Al Johnson, city manager from Nathan Tubergen, finance director of Great Falls, stating his support of this bill.

There were no further proponents and no opponents present.

DISCUSSION OF HOUSE BILL NO. 746: There was no discussion from the committee on this bill.

Rep. O'Connell closed her presentation of the bill.

CONSIDERATION OF HOUSE BILL NO. 564: Rep. Miller of District 34 appeared before the committee as sponsor of HB 564. He explained this bill is at the request of the city of Great Falls, which allows cities and towns to pay accounts and demands by check instead of warrants. Most bills in counties are paid by warrants. This bill will allow for checks to be written out of city funds in a bank, and this is a means to expedite paying of bills.

PROPONENTS: Al Johnson, city manager of Great Falls, stated there would be advantages by changing to paying by checks as it would save money. Right now they pay 35 cents to process each warrant, plus 17 cents each per check. At the

Rep. Kitselman said the system works as it is stated in the law. Billings have voted this for years, and they have grown by 28% within the city of Billings in the past three years. The people have voluntarily said they want to go into the city and pay higher taxes. This bill is giving power to a government entity that is morally and ethically wrong.

Rep. Hansen said they aren't like Billings, and if they continue to come back to the Legislature and we say no we are not going to help you with your problems, you people will have to help us with everyone of our problems.

Rep. Kadas made a substitute amendment to delete subsection (c), as he would like the bill to remain clean. This was seconded by Rep. Fritz. Question being called for, motion FAILED, with 7 opposed, and 6 voting yes. Therefore, Rep. Sales' original motion to amend was voted on, and it PREVAILED, with 5 voting no, and 8 voting in favor of it.

Rep. Kadas then moved to DO PASS AS AMENDED HB 642, and stated he would appreciate this going to the floor as it is the fairest way to do it. Rep. Sands said this is a fair issue and deserves to be given a chance. Chairman Darko seconded Rep. Kadas' motion. Motion FAILED on a Roll Call Vote of 7 to 6.

Rep. Gilbert made a substitute motion to TABLE HB 642, seconded by Rep. Poff. The non-debatable motion FAILED on a Roll Call Vote of 7 to 6.

Rep. Kitselman moved to reverse the votes on the Roll Call Vote to DO NOT PASS AS AMENDED, and this was seconded by Rep. Switzer.

DISPOSITION OF HOUSE BILL NO. 277: Rep. Gilbert reported from the Sub-committee, and he and Rep. Sands had met with six people from the Crime Control Board. They are against everything they talked about. Should a crime be committed inside a jail, who is liable. Rep. Sands had some ideas but they haven't had a chance to talk about it. They did some interim studies that sound good, but nothing much is accomplished. Rep. Fritz asked if the expert from New Mexico was present at the meeting, and Rep. Gilbert said no, that they met with the Sheriff from Teton county and four members of the Crime Board. Rep. Gilbert also stated the sheriffs in New Mexico are on tenure for two years. The sheriff of Teton county can't find a private firm that operate jails. Rep. Sands said he thinks we have a real problem with jails, and that the bill has the mechanics for dealing with the problems economically and efficiently. He said he thinks the bill needs to be amended, and that the amendments aren't that difficult. However, they need more than two members to sit on the Sub-committee.

Chairman Darko stated that since the committee does not have any bills on Tuesday, she charged the sub-committee to meet at that time and to have something ready for the committee to deal with on Thursday.

DISPOSITION OF HOUSE BILL NO. 118: Rep. Brown stated that at the request of Rep. Hannah he would like to make a motion to take HB 118 OFF THE TABLE, and this was seconded by Rep. Brandewie.

REP. Kadas stated he thinks this bill is hopeless. Rep. Gilbert said people's rights are violated. Question being called for, motion FAILED on a Roll Call Vote of 7 to 5.

Rep. Sands stated he supports the motion to take it off the table because Rep. Hannah should have the opportunity to get it on the floor.

Rep. Sands then moved to leave it on the the table and adopt amendments in a gray bill, to reconsider actions, and this was seconded by Rep. Kitselman. Question being called for, motion PREVAILED, with 4 members opposed.

Rep. Sands moved to DO PASS HB 118, and this was seconded by Rep. Brown. Rep. Sands then moved the sub-committee amendments, seconded by Rep. Brown. Motion CARRIED, with two members voting no.

Rep. Kadas moved to strike all of Section 1 - 5, seconded by Rep. Kitselman. Rep. Sands stated that if the amendments are adopted, the bill that is on the table should be Rep. Kadas' bill.

Rep. Kadas then withdrew his motion.

Rep. Sands then moved to TABLE AS AMENDED HB 118, and this was seconded by Rep. Pistoria. Motion CARRIED, with Rep. Brown and Rep. Hansen voting no.

Chairman Darko then told the committee that there were no bills scheduled for Tuesday, but there were four for Thursday, on adjournment, which would be at 5:00 p.m. There are several other bills, but they do not need to be heard until after transmittal.

Everyone thanked Rep. Brown for the sandwiches and Chairman Darko for the homemade pies.

There being no further business before the committee, the meeting was adjourned at 7:30 p.m.

Paula Darko

PAULA DARKO, Chairman

5D

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 16, 1985

NAME	PRESENT	ABSENT	EXCUSED
Paula Darko, Chairman	✓		
Norm Wallin, Vice Chairman			✓
Ray Brandewie	✓		
Dave Brown	✓		
Harry Fritz	✓		
Stella Jean Hansen	✓		
Bob Gilbert	✓		
Mike Kadas	✓		
Les Kitselman	✓		
Paul Pistoria	✓		
Bing Poff	✓		
Walter Sales	✓		
Jack Sands	✓		
Dean Switzer	✓		

Please attach to minutes.

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 21, 1985

The meeting of the Local Government Committee was called to order by Chairman Paula Darko on February 21, 1985 at 5:20 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present. However, Rep. Kadas, Rep. Kitselman, Rep. Poff and Rep. Sands were late.

CONSIDERATION OF HOUSE BILL NO. 393: Rep. Steve Waldron of District 58, sponsor of the bill, presented it to the committee. He explained this bill provides for a local option tax on hotels and motels. Most experts say there has to be mixed revenue sources to fund governments in order not to over-burden some sources. The local governments rely mainly on property taxes to fund their operations so this will provide some means for tax relief, by either reducing property taxes or not raising property taxes as fast. He explained there is a technical defect in the bill, and it is a drafting problem, as it does not provide an interlocal agreement. There is also a provision that allows the governing body to take a portion of the tax for private promotion. The tax on hotels and motels is a less aggressive tax than oppressive tax. The people who tend to stay in hotels are not the poor people. Some communities have attempted to put on a certain amount of tax, and the most expensive accommodations can compete a little better than the lesser accommodations. Rep. Waldron urged the committee's adoption of the bill.

Chairman Darko stated to the people in the audience that if they wished to address both bills (HB 393 and HB 804), that would be fine.

PROPONENTS: Alec Hansen, League of Cities and Towns, stated they support this bill, and this is one of the major measures in this packet for this Legislature. The questions about the serious financial problems of the local governments in Montana are on everyone's minds. This bill gives steps to make alternatives in property taxes in Montana. Fifty percent of the revenue provided in this tax would come from non-residents. This bill provides a way of generating desperately needed money without hurting the people who are fighting in the cities and towns to maintain property taxes. This tax will be at the approval of

months was in the original bill by the Board of Crime Control.

Rep. Sales said he is wondering if there is any way we can make a local option of this by allowing the mayor or someone to decide whether this guy has to go out or not. Rep. Gilbert said he did not think we are destroying the system. All we are saying is that in the next two years they don't have to go back to school, but only pass the test.

Rep. Brown's amendments PASSED UNANIMOUSLY.

Rep. Brown then moved to DO PASS AS AMENDED HB 900, and this was seconded by Rep. Fritz. Question being called for, motion PASSED, with Rep. Pistoria voting "no".

DISPOSITION OF HOUSE BILL NO. 277: Rep. Gilbert presented the proposed amendment offered by the subcommittee.

Rep. Brown moved HB 277 DO PASS, and this was seconded by Rep. Sales. Rep. Kitselman moved the amendments, and this was seconded by Rep. Brown.

Rep. Gilbert stated that this bill in its original form met with strong opposition from the sheriffs. Therefore, Chairman Darko appointed a subcommittee, and they have met with the sheriffs. They are wanting to salvage the original concept. Rep. Gilbert then went over the amendments, and explained that #7, page 3, line 19 "hot pursuit" was Rep. Sands' idea.

Question being called, Rep. Kitselman's motion to DO PASS the subcommittee amendments PASSED UNANIMOUSLY.

Rep. Sands made the motion to DO PASS AS AMENDED HB 277, and this was seconded by Rep. Kitselman. Question being called for, motion PASSED, with Rep. Pistoria voting "no".

DISPOSITION OF HOUSE BILL NO. 841: Rep. Brown moved, seconded by Rep. Brandewie that HB 841 DO PASS. Rep. Gilbert stated he would like to talk about it. We listened to proponents and opponents, and this is reverse annexation. Missoula is crying about 5 revenue sources they lost.

Rep. Hansen told Rep. Gilbert there are things that the city has to offer. For instance the sewer system. The Wapikiya area has to have their sewer pumped. Rep. Gilbert said he agrees, but he has never heard the city

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb 21, 1985

NAME	PRESENT	ABSENT	EXCUSED
Paula Darko, Chairman	✓		
Norm Wallin, Vice Chairman	✓		
Ray Brandewie	✓		
Dave Brown	✓		
Harry Fritz	✓		
Stella Jean Hansen	✓		
Bob Gilbert	✓		
Mike Kadas	✓ late		
Les Kitselman	✓ late		
Paul Pistoria	✓		
Bing Poff	✓ late		
Walter Sales	✓		
Jack Sands	✓ late		
Dean Switzer	✓		

Please attach to minutes.

54

CUT + PASTE WITH SUBCOMMITEE AMENDMENTS

HOUSE BILL NO. 277

INTRODUCED BY _____

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING OF JAILS ~~AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING LIMITATIONS~~; AND AMENDING SECTIONS ~~7-7-2101, 7-7-2203, 7-7-2221,~~ 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201, 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209, 7-32-2212, 7-32-2221, AND 7-32-2222, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

"NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 3] to allow regional or single county jails to be built by private industry and leased back to the participating county or counties for operation by the county or collectively by participating counties, or by a private entity with the concurrence of the sheriff or sheriffs involved."

NEW SECTION. Section 2. County jails -- contracts with private parties. (1) The term of an agreement under 7-32-2201 with a private party may not exceed 3 years.

(2) The agreement must include:

(a) detailed standards for the operation of the jail and the incarceration of prisoners;

(b) a performance bond from the private party acceptable to the county;

55

(c) a promise from the private party to indemnify the

county for any damages for which the county is found liable as a result of the operation of the jail;

(d) a provision that the private party must purchase liability insurance in an amount acceptable to the county;

(e) minimum standards for the training of jailers and a provision that the private party will ensure such training; and

(f) a provision that the county may immediately terminate the contract for good cause.

(3) The provisions of Title 7 relating to bids for county contracts and purchases do not apply to a contract entered into under 7-32-2201 and this section.

NEW SECTION. Section 3. Requests for contract proposals. (1) A county seeking to enter into a contract under 7-32-2201 and [section 2] may publish a request for proposals. The request for proposals must be published in a newspaper of general circulation in the county once a week for 3 successive weeks and must include information concerning the type of jail services required.

(2) Requests for proposals must be sent to persons who have previously requested that their names be placed on a list of persons providing jail services. The Montana board of crime control shall maintain a list of persons providing jail services and furnish the list to a county upon request.

(3) In selecting a proposal and awarding a contract, a

county need not accept the proposal with the lowest cost.

(4) The county must base its selection on demonstrated competence, knowledge and qualifications, the reasonableness of the services proposed, and the reasonableness of the proposed contract price for the jail services.

(5) A copy of all proposals must be kept available for public inspection in the office of the county clerk and recorder.

(6) The county must give specific reasons for its selection of a proposal. The reasons must be recorded in the minutes of the governing body of the county.

NEW SECTION. Section 7.4 Powers of jail administrators and private party jailers. A jail administrator or a private party acting as a jailer under an agreement, as provided for in 7-32-2201(2), ~~and his assistant jailers have the powers and duties of sheriffs;~~

is responsible for the immediate management and control of the jail subject to general policies and programs established pursuant to the agreement provided for in 7-32-2201(2) and any applicable interlocal agreement. The powers of such an administrator, and corrections personnel employed under his authority, include control over prisoners:

(1) within the confines and grounds of the jail; and

(2) outside the jail confines and grounds while transporting any prisoner or in the not pursuit or apprehension of any escapee.

~~Section 4. Section 7-7-2101, MCA, is amended to read:~~

"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 23% of the taxable 57

value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, except that an additional indebtedness of up to 12.5% of the taxable value of the property in the county subject to taxation may be incurred for the construction or improvement of a jail.

(2) No county may incur indebtedness or liability for any single purpose, except for the construction or improvement of a jail, to an amount exceeding $150,000 without the approval of a majority of the electors thereof voting at an election to be provided by law, except as provided in 7-21-3413 and 7-21-3414."

Section 5. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) and ~~(3)~~ through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the taxable value of the property therein, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) ~~A~~ In addition to the bonds allowed by subsection (1), a county may issue bonds which, ~~with all outstanding~~

~~bonds-and-warrants,-will-exceed-11.25%-but~~ will not exceed ~~37%~~ 25.75% of the taxable value of ~~such--property~~ the property in the county subject to taxation, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail, which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

~~(3)~~(4) The ~~foregoing~~ limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Section 6. Section 7-7-2221, MCA, is amended to read:

"7-7-2221. Issuance of certain general obligation bonds without election. Bonds may be issued without submitting the same to an election if the bonds are issued for the purpose of:

(1) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of a county boundary line, as set forth in 7-7-2201(5); and

57

(2) funding, paying in full, or compromising, settling, and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, as set forth in 7-7-2202; and

(3) construction or improvement of a jail."

Section 8.5 Section 7-32-2121, MCA, is amended to read:

"7-32-2121. Duties of sheriff. The sheriff must:

(1) preserve the peace;

(2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

(3) prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

(4) perform the duties of a humane officer within the county with reference to the protection of dumb animals;

(5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the county jail and the prisoners therein, unless the jail is operated by a private

party under an agreement entered into under 7-32-2201 or by a jail administrator;

(8) endorse upon all notices and process the year, month, day, hour, and minute of reception and issue therefor to the person delivering them, on payment of fees, a certificate showing the names of the parties, the title of the paper, and the time of reception;

(9) serve all process or notices in the manner prescribed by law;

(10) certify in writing upon the process or notices the manner and time of service or, if he fails to make service, the reasons of this failure, and return the papers without delay;

(11) take charge of and supervise search and rescue units and their officers whenever search and rescue units are called into service; and

(12) perform such other duties as are required by law."

Section 8. Section 7-32-2123, MCA, is amended to read:

"7-32-2123. Appointment of deputy sheriff to act as jailer. ~~The~~ A sheriff who operates a county jail may appoint two deputies in counties of the first, second, or third class and one deputy in counties of the fourth, fifth, sixth, or seventh class who shall act as jailer and receive the same salary as other deputy sheriffs."

Section 9. Section 7-32-2132, MCA, is amended to read:

60

"7-32-2132. Liability for escape in civil actions. (1) A sheriff, jail administrator, or private party jailer who fails to prevent the escape or rescue of a person in his custody arrested in a civil action without the consent or connivance of the party in whose behalf the arrest or imprisonment was made is liable as follows:

(a) When the arrest is upon an order to hold for bail or upon a surrender in exoneration of bail before judgment, the sheriff, jail administrator, or private party jailer is liable to the plaintiff for the bail.

(b) When the arrest is on an execution or commitment to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the amount expressed in the execution or commitment.

(c) When the arrest is on an execution or commitment other than to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the actual damages sustained.

(2) Upon being sued for damages for an escape or rescue of a person in his custody, the sheriff, jail administrator, or private party jailer may introduce evidence in mitigation or exculpation.

(3) An action may not be maintained against a sheriff, jail administrator, or private party jailer for a rescue or for an escape of a person arrested upon an execution or

commitment if, after his rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff, jail administrator, or private party jailer."

Section 10. Section 7-32-2201, MCA, is amended to read:

"7-32-2201. County jail required. (1) A jail shall be built or provided and kept in good repair at the expense of the county in each county, except that whenever in the discretion of the commissioners of two or more counties it is necessary or desirable to build, provide, or utilize a common jail, they may do so in any city or town located within one of the counties so concerned. Such common jail shall be built or provided and kept in good repair at the expense of the counties concerned on a basis as the commissioners of the counties shall agree.

(2) A county, or two or more counties acting together, may provide for the jail required by subsection (1) by:

(a) establishing in the county government the position of jail administrator and, with the sheriff's concurrence, hiring a person, who is answerable to the governing body of the county, to fill the position; or, with the concurrence of the sheriffs of all participating counties,

(b) entering into an agreement with a private party under which the private party will provide, maintain, or operate the jail.

Remainder of bill is unchanged.

Amend HB 277 (Subcommittee amendments)

1. Title, lines 9 and 10.
Strike: "AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING"

2. Title, line 11.
Strike: "LIMITATIONS"
Strike: "7-7-2101, 7-7-2203"

3. Title, line 12.
Strike: "7-7-2221"

4. Page 1.
Following: line 16.
Insert: "NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 3] to allow regional or single county jails to be built by private industry and leased back to the participating county or counties for operation by the county or collectively by participating counties, or by a private entity with the concurrence of the sheriff or sheriffs involved."
Renumber: subsequent sections

5. Page 2, line 15.
Following: "section"
Strike: "1"
Insert: "2"

6. Page 3, lines 15 and 16.
Strike: "and his assistant jailers have the powers and duties of sheriffs"
Insert: "is responsible for the immediate management and control of the jail subject to general policies and programs established pursuant to the agreement provided for in 7-32-2201(2) and any applicable interlocal agreement. The powers of such an administrator, and corrections personnel employed under his authority, include control over prisoners:"

7. Page 3, line 19.
Following: "the"
Insert: "hot"

8. Page 3, line 21 through line 5 of page 6.
Strike: sections 4 through 6 in their entirety
Renumber: subsequent sections

9. Page 9, line 23.
Following: "agreement"
Insert: ", with the concurrence of the sheriffs of all participating counties,"

6-4

STANDING COMMITTEE REPORT

February 21, 19 85

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 277

FIRST reading copy (WHITE color)

ALLOW PRIVATE PARTIES TO RUN JAILS; EXEMPT JAILS FROM FINANCING LIMITS

Respectfully report as follows: That HOUSE Bill No. 277

BE AMENDED AS FOLLOWS:

1. Title, lines 9 and 10.
Strike: "AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING"

2. Title, line 11.
Strike: "LIMITATIONS"
Strike: "7-7-2101, 7-7-2203,"

3. Title, line 12.
Strike: "7-7-2221,"

DO ~~PASS~~

CONTINUED

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

65

February 21, 1985

4. Page 1.
Following: line 16.
Insert: "NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 4] to allow regional or single-county jails to be built by private industry and leased back to the participating county or counties for operation by the county, collectively by participating counties, or by a private entity with the concurrence of the sheriff or sheriffs involved."
Renumber: subsequent sections

5. Page 2, line 15.
Following: "section"
Strike: "1"
Insert: "2"

6. Page 3, lines 15 and 16.
Strike: "and his assistant jailers have the powers and duties of sheriffs"
Insert: "is responsible for the immediate management and control of the jail subject to general policies and programs established pursuant to the agreement provided for in 7-32-2201(2) and any applicable interlocal agreement. The powers of such an administrator and corrections personnel employed under his authority include control over prisoners"

7. Page 3, line 19.
Following: "the"
Insert: "hot"

8. Page 3, line 21 through line 5 of page 6.
Strike: sections 4 through 6 in their entirety
Renumber: subsequent sections

9. Page 9, line 23.
Following: "agreement"
Insert: ", with the concurrence of the sheriffs of all participating counties,"

AND AS AMENDED,
DO PASS

PAULA DARKO, Chairman.

STATE PUB. CO.
Helena, Mont.

2-22-1985

HB 890, referred to the committee of the whole without recommendation. Report adopted.

Adverse Committee Reports
HB 863, do not pass.
HB 868, do not pass.
HB 874, do not pass.
HB 898, do not pass.

HIGHWAYS AND TRANSPORTATION (Harp, Chairman): 2/21/85
HB 66, introduced bill, be amended as follows:

1. Title, line 6.
Following: "ENCLOSED"
Insert: ", AT A SPEED IN EXCESS OF 25 MILES PER HOUR"

2. Page 1, line 10.
Following: "pickup,"
Insert: "at a speed in excess of 25 miles per hour"

And, as amended, do pass. Report adopted.

JUDICIARY (Hannah, Chairman): 2/22/85
HB 799, introduced bill, be amended as follows:

1. Page 1, line 21.
Strike: "$3,500"
Insert: "$2,500"

2. Page 2, line 12.
Strike: "$3,500"
Insert: "$2,500"

3. Page 2, line 14.
Strike: "$3,500"
Insert: "$2,500"

4. Page 3, line 5.
Strike: "$3,500"
Insert: "$2,500"

And, as amended, do pass. Report adopted.

HB 889, do pass. Report adopted.
HJR 24, do pass. Report adopted.

Adverse Committee Reports
HB 17, do not pass.
HB 797, do not pass.

LOCAL GOVERNMENT (Darko, Chairman): 2/21/85
HB 277, introduced bill, be amended as follows:

1. Title, lines 9 and 10.
Strike: "AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING"

2. Title, line 11.
Strike: "LIMITATIONS"
Strike: "7-7-2101, 7-7-2203,"

3. Title, line 12.
Strike: "7-7-2221,"

67

4. Page 1.
Following: line 16
Insert: "NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 4] to allow regional or single-county jails to be built by private industry and leased back to the participating county or counties for operation by the county, collectively by participating counties, or by a private entity with the concurrence of the sheriff or sheriffs involved."
Renumber: subsequent sections

5. Page 2, line 15.
Following: "section"
Strike: "1"
Insert: "2"

6. Page 3, lines 15 and 16.
Strike: "and his assistant jailers have the powers and duties of sheriffs"
Insert: "is responsible for the immediate management and control of the jail subject to general policies and programs established pursuant to the agreement provided for in 7-32-2201(2) and any applicable interlocal agreement. The powers of such an administrator and corrections personnel employed under his authority include control over prisoners"

7. Page 3, line 19.
Following: "the"
Insert: "hot"

8. Page 3, line 21 through line 5, page 6.
Strike: sections 4 through 6 in their entirety
Renumber: subsequent sections

9. Page 9, line 23.
Following: "agreement"
Insert: ", with the concurrence of the sheriffs of all participating counties,"

And, as amended, do pass. Report adopted.

HB 883, do pass. Report adopted.
HB 894, do pass. Report adopted.
HB 900, introduced bill, be amended as follows:

1. Title, line 7.
Following: "3"
Insert: "BUT LESS THAN 5"

2. Page 4, line 4.
Following: "more"
Insert: "but less than 60"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Sales, Chairman): 2/22/85
HB 801, do pass. Report adopted.
HB 878, do pass. Report adopted.
HB 893, do pass. Report adopted.
HB 916, introduced bill, be amended as follows:

1. Page 4, line 8.
Strike: "request"

68

2nd Reading

Total 42

Excused: Holliday, McCormick, Schultz.
Total 3

Absent or not voting: Connelly, Hammond, Kadas.
Total 3

HB 121 - That HB 121 do pass. Motion carried as follows:

Ayes: Abrams, Asay, Bergene, Brandewie, D. Brown, Campbell, Cobb, Cody, Cohen, Compton, Devlin, Donaldson, Ellerd, Ellison, Ernst, Fritz, Garcia, Gilbert, Grady, Hand, Hannah, Hanson, Harp, Hayne, Iverson, Jenkins, Keller, Keyser, Kitselman, Manuel, Marks, Miller, Montayne, J.K. Moore, Nathe, Nelson, O'Connell, Patterson, Peterson, Phillips, Poff, Ramirez, Rehberg, Sales, Schye, Switzer, Thomas, Wallin.
Total 48

Noes: Addy, Bachini, Bardanouve, Bradley, J. Brown, Connelly, Darko, Driscoll, Glaser, Gould, Hammond, Hansen, Harbin, Harper, Harrington, Hart, Howe, Jones, Kadas, Keenan, Kennerly, Koehnke, Krueger, Lory, Menahan, Miles, J. Moore, Nisbet, O'Hara, Pavlovich, Peck, Pistoria, Quilici, Raney, Rapp-Svrcek, Ream, Sands, Simon, Smith, Spaeth, Swift, Thoft, Waldron, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 47

Excused: Holliday, McCormick, Schultz.
Total 3

Absent or not voting: Eudaily, Mercer.
Total 2

Representative Nelson excused at this time.

HB 277 - That HB 277 do pass. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bergene, Bradley, Brandewie, D. Brown, J. Brown, Cobb, Cody, Cohen, Compton, Connelly, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fritz, Garcia, Gilbert, Glaser, Gould, Grady, Hammond, Hand, Hannah, Hansen, Hanson, Harbin, Harp, Harper, Harrington, Hart, Hayne, Howe, Iverson, Jenkins, Jones, Kadas, Keenan, Keller, Kennerly, Keyser, Kitselman, Koehnke, Krueger, Lory, Manuel, Marks, Menahan, Mercer, Miles, Miller, J.K. Moore, J. Moore, Nathe, Nisbet, O'Connell, O'Hara, Patterson, Pavlovich, Peck, Peterson, Phillips, Poff, Quilici, Ramirez, Raney, Rapp-Svrcek, Ream, Rehberg, Sales, Sands, Schye, Simon, Smith, Spaeth, Swift, Switzer, Thoft, Thomas, Waldron, Wallin, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 93

Noes: None.
Total 0

Excused: Holliday, McCormick, Nelson, Schultz.
Total 4

Absent or not voting: Campbell, Montayne, Pistoria.
Total 3

HB 329 - Representative Hannah moved that HB 329, second reading copy, be amended as follows:

1. Page 3, line 9.
Following: "OWNER"

69

2-26-1985 3rd Reading

Total 41

Excused: Holliday, Sales.
Total 2

Absent or not voting: None.
Total 0

HB 277 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bergene, Bradley, Brandewie, D. Brown, J. Brown, Campbell, Cobb, Cody, Cohen, Compton, Connelly, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fritz, Garcia, Gilbert, Glaser, Gould, Grady, Hammond, Hand, Hannah, Hansen, Hanson, Harbin, Harp, Harper, Harrington, Hart, Hayne, Howe, Iverson, Jenkins, Jones, Kadas, Keenan, Keller, Kennerly, Keyser, Kitselman, Koehnke, Krueger, Lory, McCormick, Manuel, Marks, Menahan, Mercer, Miles, Miller, Montayne, J.K. Moore, J. Moore, Nathe, Nelson, Nisbet, O'Connell, O'Hara, Patterson, Pavlovich, Peck, Peterson, Phillips, Pistoria, Poff, Quilici, Ramirez, Raney, Rapp-Svrcek, Ream, Rehberg, Sands, Schultz, Schye, Simon, Smith, Spaeth, Swift, Switzer, Thoft, Thomas, Waldron, Wallin, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 98

Noes: None.
Total 0

Excused: Holliday, Sales.
Total 2

Absent or not voting: None.
Total 0

HB 329 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bergene, Brandewie, D. Brown, Cobb, Cody, Cohen, Compton, Darko, Devlin, Donaldson, Ellerd, Ellison, Ernst, Eudaily, Fritz, Garcia, Gilbert, Glaser, Gould, Grady, Hammond, Hand, Hannah, Hansen, Hanson, Harbin, Harp, Hart, Hayne, Howe, Iverson, Jenkins, Kadas, Keller, Kennerly, Keyser, Kitselman, Krueger, Lory, Marks, Mercer, Miles, Miller, J.K. Moore, J. Moore, Nelson, Peck, Peterson, Phillips, Poff, Raney, Rapp-Svrcek, Ream, Sands, Schultz, Schye, Simon, Spaeth, Swift, Switzer, Thoft, Thomas, Waldron, Winslow, Zabrocki, Mr. Speaker.
Total 71

Noes: Bradley, J. Brown, Campbell, Connelly, Driscoll, Harper, Harrington, Jones, Keenan, Koehnke, McCormick, Manuel, Menahan, Montayne, Nisbet, O'Connell, O'Hara, Patterson, Pavlovich, Pistoria, Quilici, Ramirez, Rehberg, Smith, Wallin, Williams.
Total 26

Excused: Holliday, Sales.
Total 2

Absent or not voting: Nathe.
Total 1

HB 363 passed as follows:

Ayes: Asay, Bardanouve, Bergene, Brandewie, Campbell, Cobb, Cody, Compton, Devlin, Donaldson, Ellerd, Ellison, Ernst, Eudaily, Fritz, Gilbert,

70

CHAIRMAN--FULLER, DAVE
NORMAL SCHEDULE==> SITE: ROOM 405 DAYS: TU-TH-SAT TIME: 12:30-2:30 P.M.
SECRETARY-GHILARDI, CHERYL

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0248	2/07	3/09		TABLED		
SCHYE, TED			LOCAL GOVERNMENT DEPOSIT SECURITY NET WORTH TO TOTAL ASSETS RATIO			
HB0263	1/30	3/09		CONCUR AS AMENDED		3/9
PISTORIA, PAUL G.			LOCAL GOVERNMENTS AND SCHOOL DISTRICTS TO PAY INTEREST ON OVERDUE ACCOUNTS			
HB0277	3/04	3/09	3/12 3/16	CONCUR AS AMENDED		3/16
MANUEL, REX			ALLOW PRIVATE PARTIES TO RUN JAILS; EXEMPT JAILS FROM FINANCING LIMITS			
HB0299	2/09	3/09		CONCUR		3/9
EUDAILY, RALPH S.			COUNTY PRINTING - BIDS BY NONRESIDENTS - RESIDENT 5% PREFERENCE			
HB0328	2/14	3/09		TABLED		
HANNAH, TOM			SINGLE LOCAL BANK TO BID ON INTEREST PAID ON DEPOSITS OF PUBLIC FUND			
HB0333	2/12	3/05	3/07	CONCUR AS AMENDED		3/7
BRADLEY, DOROTHY			ALLOW A JP OR MUNICIPAL JUDGE TO NAME A PERSON TO ACT AS JUDGE IN HIS BEHALF			
HB0345	2/08	3/12		CONCUR		3/12
SPAETH, GARY			COMMERCE TO ADMINISTER COMMUNITY DEVELOPMENT BLOCK GRANT			
HB0379	2/13	3/12		CONCUR		3/12
GARCIA, RODNEY L.			OPTIONAL PUBLICATION REQUIREMENTS FOR COUNTY COMMISSIONERS			
HB0384	2/25	3/19		CONCUR		3/19
BERGENE, TONI R.			NO ELECTION ON ANNEXATION IF ALL PROPERTY OWNERS OF AREA SIGN PETITION			
HB0414	2/21	3/12	3/16	CONCUR		3/16
IVERSON, DENNIS			PUBLIC SAFETY COMMISSION EMPLOYEES - SALARY, WORKPERIOD, AND OVERTIME			
HB0431	2/22	3/12		CONCUR		3/12
NATHE, DENNIS G.			REQUIRE SHERIFF'S SALE TO BE POSTED & PUBLISHED 1 WEEK BEFORE SALE			

HOUSE BILL NO. 277

INTRODUCED BY MANUEL

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING OF JAILS ~~AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING LIMITATIONS~~; AND AMENDING SECTIONS ~~7-7-2101, 7-7-2203, 7-7-2221,~~ 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201, 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209, 7-32-2212, 7-32-2221, AND 7-32-2222, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. SECTION 1. PURPOSE. IT IS THE PURPOSE OF [SECTIONS 1 THROUGH 4] TO ALLOW REGIONAL OR SINGLE-COUNTY JAILS TO BE BUILT BY PRIVATE INDUSTRY AND LEASED BACK TO THE PARTICIPATING COUNTY OR COUNTIES FOR OPERATION BY THE COUNTY, COLLECTIVELY BY PARTICIPATING COUNTIES, OR BY A PRIVATE ENTITY WITH THE CONCURRENCE OF THE SHERIFF OR SHERIFFS INVOLVED.

NEW SECTION. Section 2. County jails -- contracts with private parties. (1) The term of an agreement under

7-32-2201 with a private party may not exceed 3 years.

(2) The agreement must include:

(a) detailed standards for the operation of the jail and the incarceration of prisoners;

(b) a performance bond from the private party acceptable to the county;

(c) a promise from the private party to indemnify the county for any damages for which the county is found liable as a result of the operation of the jail;

(d) a provision that the private party must purchase liability insurance in an amount acceptable to the county;

(e) minimum standards for the training of jailers and a provision that the private party will ensure such training; and

(f) a provision that the county may immediately terminate the contract for good cause.

(3) The provisions of Title 7 relating to bids for county contracts and purchases do not apply to a contract entered into under 7-32-2201 and this section.

NEW SECTION. Section 3. Requests for contract proposals. (1) A county seeking to enter into a contract under 7-32-2201 and [section ~~1~~ 2] may publish a request for proposals. The request for proposals must be published in a newspaper of general circulation in the county once a week for 3 successive weeks and must include information

THIRD READING

concerning the type of jail services required.

(2) Requests for proposals must be sent to persons who have previously requested that their names be placed on a list of persons providing jail services. The Montana board of crime control shall maintain a list of persons providing jail services and furnish the list to a county upon request.

(3) In selecting a proposal and awarding a contract, a county need not accept the proposal with the lowest cost.

(4) The county must base its selection on demonstrated competence, knowledge and qualifications, the reasonableness of the services proposed, and the reasonableness of the proposed contract price for the jail services.

(5) A copy of all proposals must be kept available for public inspection in the office of the county clerk and recorder.

(6) The county must give specific reasons for its selection of a proposal. The reasons must be recorded in the minutes of the governing body of the county.

NEW SECTION. Section 4. Powers of jail administrators and private party jailers. A jail administrator or a private party acting as a jailer under an agreement, as provided for in 7-32-2201(2), ~~and his assistant jailers have the powers and duties of sheriffs~~ IS RESPONSIBLE FOR THE IMMEDIATE MANAGEMENT AND CONTROL OF THE JAIL SUBJECT TO GENERAL POLICIES AND PROGRAMS ESTABLISHED PURSUANT TO THE AGREEMENT

PROVIDED FOR IN 7-32-2201(2) AND ANY APPLICABLE INTERLOCAL AGREEMENT. THE POWERS OF SUCH AN ADMINISTRATOR AND CORRECTIONS PERSONNEL EMPLOYED UNDER HIS AUTHORITY INCLUDE CONTROL OVER PRISONERS:

(1) within the confines and grounds of the jail; and

(2) outside the jail confines and grounds while transporting any prisoner or in the HOT pursuit or apprehension of any escapee.

~~Section 4. Section 7-7-2101, MCA, is amended to read:~~

~~"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 23% of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, except that an additional indebtedness of up to 12.5% of the taxable value of the property in the county subject to taxation may be incurred for the construction or improvement of a jail.~~

~~(2) No county may incur indebtedness or liability for any single purpose, except for the construction or improvement of a jail, to an amount exceeding $150,000 without the approval of a majority of the electors thereof voting at an election to be provided by law, except as~~

provided in 7-21-3413 and 7-21-3414."

Section 5. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) and (3) through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the taxable value of the property therein, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) A In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, will exceed 11.25% but will not exceed 37% 25.75% of the taxable value of such property the property in the county subject to taxation, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail, which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

(3)(4) The foregoing limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Section 6. Section 7-7-2221, MCA, is amended to read:

"7-7-2221. Issuance of certain general obligation bonds without election. Bonds may be issued without submitting the same to an election if the bonds are issued for the purpose of:

(1) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of a county boundary line, as set forth in 7-7-2201(5); and

(2) funding, paying in full, or compromising, settling, and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, as set forth in 7-7-2202; and

(3) construction or improvement of a jail."

Section 5. Section 7-32-2121, MCA, is amended to read:

"7-32-2121. Duties of sheriff. The sheriff must:

(1) preserve the peace;

(2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

(3) prevent and suppress all affrays, breaches of the

peace, riots, and insurrections which may come to his knowledge;

(4) perform the duties of a humane officer within the county with reference to the protection of dumb animals;

(5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the county jail and the prisoners therein, unless the jail is operated by a private party under an agreement entered into under 7-32-2201 or by a jail administrator;

(8) endorse upon all notices and process the year, month, day, hour, and minute of reception and issue therefor to the person delivering them, on payment of fees, a certificate showing the names of the parties, the title of the paper, and the time of reception;

(9) serve all process or notices in the manner prescribed by law;

(10) certify in writing upon the process or notices the manner and time of service or, if he fails to make service, the reasons of this failure, and return the papers without

delay;

(11) take charge of and supervise search and rescue units and their officers whenever search and rescue units are called into service; and

(12) perform such other duties as are required by law."

Section 6. Section 7-32-2123, MCA, is amended to read:

"7-32-2123. Appointment of deputy sheriff to act as jailer. ~~The~~ A sheriff who operates a county jail may appoint two deputies in counties of the first, second, or third class and one deputy in counties of the fourth, fifth, sixth, or seventh class who shall act as jailer and receive the same salary as other deputy sheriffs."

Section 7. Section 7-32-2132, MCA, is amended to read:

"7-32-2132. Liability for escape in civil actions. (1) A sheriff, jail administrator, or private party jailer who fails to prevent the escape or rescue of a person in his custody arrested in a civil action without the consent or connivance of the party in whose behalf the arrest or imprisonment was made is liable as follows:

(a) When the arrest is upon an order to hold for bail or upon a surrender in exoneration of bail before judgment, the sheriff, jail administrator, or private party jailer is liable to the plaintiff for the bail.

(b) When the arrest is on an execution or commitment to enforce the payment of money, the sheriff, jail

administrator, or private party jailer is liable for the amount expressed in the execution or commitment.

(c) When the arrest is on an execution or commitment other than to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the actual damages sustained.

(2) Upon being sued for damages for an escape or rescue of a person in his custody, the sheriff, jail administrator, or private party jailer may introduce evidence in mitigation or exculpation.

(3) An action may not be maintained against a sheriff, jail administrator, or private party jailer for a rescue or for an escape of a person arrested upon an execution or commitment if, after his rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff, jail administrator, or private party jailer."

Section 8. Section 7-32-2201, MCA, is amended to read:

"7-32-2201. County jail required. (1) A jail shall be built or provided and kept in good repair at the expense of the county in each county, except that whenever in the discretion of the commissioners of two or more counties it is necessary or desirable to build, provide, or utilize a common jail, they may do so in any city or town located within one of the counties so concerned. Such common jail

shall be built or provided and kept in good repair at the expense of the counties concerned on a basis as the commissioners of the counties shall agree.

(2) A county, or two or more counties acting together, may provide for the jail required by subsection (1) by:

(a) establishing in the county government the position of jail administrator and, with the sheriff's concurrence, hiring a person, who is answerable to the governing body of the county, to fill the position; or

(b) entering into an agreement, WITH THE CONCURRENCE OF THE SHERIFFS OF ALL PARTICIPATING COUNTIES, with a private party under which the private party will provide, maintain, or operate the jail.

~~(2)~~(3) The common jails in the several counties of this state are kept by the sheriffs, jail administrators, or private parties agreeing to act as jailers of the counties in which they are respectively situated. In the case of more than one county utilizing a common jail as provided in subsection (1), such jail shall be kept by the sheriffs of the counties utilizing the common jail on a basis as the sheriffs shall agree, by a jail administrator hired by the county in which the jail is situated, or by a private party agreeing to act as the jailer.

~~(3)~~(4) The board of county commissioners has jurisdiction and power, under such limitations and

restrictions as are prescribed by law, to cause a jail to be erected, furnished, and maintained."

Section 9. Section 7-32-2202, MCA, is amended to read:

"7-32-2202. Use of jail in contiguous county. (1) When there is no jail in the county or when the jail becomes unfit or unsafe for the confinement of prisoners, the district judge may, by written appointment filed with the clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county (or any of them) and may at any time modify or annul the appointment.

(2) A copy of the appointment, certified by the clerk, must be served on the sheriff ~~or~~ of each county, and the keeper of the designated jail if the keeper is not the sheriff, who must receive into his jail all prisoners authorized to be confined therein pursuant to this section and who is responsible for the safekeeping of the persons so committed in the same manner and to the same extent as if he were the sheriff, jail administrator, or private party jailer of the county for whose use his jail is designated. With respect to the persons so committed, he is deemed the sheriff, jail administrator, or private party jailer of the county from which they were removed.

(3) When a jail is erected in the county for the use of which the designation was made or its jail is rendered fit and safe for the confinement of prisoners, the district

judge of that county must, by a written revocation filed with the clerk, declare that the necessity for the designation has ceased and that it is revoked.

(4) The clerk must immediately serve a copy of the revocation upon the sheriff of each county and the keeper of the ~~county, who~~ jail in each county if the keeper is not the sheriff. The keeper of the jail in the designated county must thereupon remove the prisoners to the jail from which the removal was had."

Section 10. Section 7-32-2204, MCA, is amended to read:

"7-32-2204. Maintenance of county jail. (1) The county commissioners, or the private party when provided in an agreement entered into under 7-32-2201(2), have the ~~care~~ duty of building, inspecting, and repairing the jail and:

~~(1)--must,-once-every-3-months,-inquire-into-its-state,-as-respects-the-security--thereof,--and--the--treatment--and condition-of-prisoners,-and~~

~~(2)~~ must take all necessary precautions against escape, sickness, or infection.

(2) The county commissioners must inquire into the security of the jail and the condition of the prisoners every 3 months."

Section 11. Section 7-32-2205, MCA, is amended to read:

"7-32-2205. Confinement of prisoners. The sheriff, jail administrator, or private party jailer must receive all persons committed to jail by competent authority and provide them with necessary food, clothing, and bedding, for which he sheriffs and jail administrators, but not jailers operating a jail under an agreement provided for in 7-32-2201(2), shall submit claims for the actual expenses incurred to the board of county commissioners for their determination and, except as provided in 7-32-2207, to be paid out of the county treasury."

Section 12. Section 7-32-2206, MCA, is amended to read:

"7-32-2206. Confinement of federal prisoners. (1) The sheriff, jail administrator, or private party jailer must receive and keep in the county jail any prisoner committed thereto by process or order issued under the authority of the United States until he is discharged according to law, as if he had been committed under process issued under the authority of this state.

(2) Provision and agreement for the use of said jails and the support and subsistence of such federal prisoners shall first be made by the United States, through or by the proper officer or officers, with the board of county commissioners of the county wherein such prisoners are to be confined. Such agreement shall be in writing and contain a

provision that the United States shall, upon claim presented for the county by its county clerk and recorder, pay into the county treasury of the county or to a jailer operating a jail under an agreement provided for by 7-32-2201(2) the sum of $10 per day for each and every prisoner held in the county jail upon order or commitment of the United States government or any department or officer thereof.

(3) A sheriff, jail administrator, or private party jailer to whose custody a prisoner is committed as provided in this section is answerable for his safekeeping in the courts of the United States, according to the laws thereof."

Section 13. Section 7-32-2207, MCA, is amended to read:

"7-32-2207. Confinement of persons on civil process. (1) Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff, jail administrator, or private party jailer is not bound to receive such person unless security is given on the part of the party at whose instance the process is issued, by a deposit of money, to meet the expenses for him of necessary food, clothing, and bedding or to detain such person any longer than these expenses are provided for.

(2) This section does not apply to cases where a party is committed as a punishment for disobedience to the

mandates, process, writs, or orders of court."

Section 14. Section 7-32-2209, MCA, is amended to read:

"7-32-2209. Expenses of persons committed to jail by highway patrol bureau. In the event a person is committed to jail by the highway patrol bureau, department of justice, the state of Montana shall, upon claim presented for the county by the clerk and recorder, pay into the county treasury of the county or to a jailer operating a jail under an agreement provided for in 7-32-2201(2) the sum of $10 per day for each and every prisoner held in the county jail upon order or commitment of the highway patrol bureau or any department or officer thereof. For the purposes of this section, a day shall be defined as a 24-hour period or portion thereof, beginning with the time of incarceration. Such claims upon the highway patrol bureau, department of justice, shall be paid ~~to-the-various-counties~~ out of funds appropriated for that purpose."

Section 15. Section 7-32-2212, MCA, is amended to read:

"7-32-2212. ~~Sheriff-to-prepare-list~~ List of prisoners. The sheriff, jail administrator, or private party jailer of each county must, on the first Monday in January and every 3 months thereafter, return to the county commissioners a certified list of the names of all prisoners in his custody

on the last day of the preceding month, with the time and cause of their confinement, the length of time for which they were committed, and the number received and discharged during the preceding 3 months. In case he fails to do so, the sheriff, jail administrator, or private party jailer must not receive any compensation for the sustenance of the prisoners in his custody."

Section 16. Section 7-32-2221, MCA, is amended to read:

"7-32-2221. Segregation of prisoners -- confinement of juveniles. (1) Each county jail must contain a sufficient number of rooms to allow the sheriff, jail administrator, or private party jailer to separately confine classes of prisoners as may be necessary to the security and safety of those prisoners and the jail.

(2) Persons who are violent, disturbed, or inebriated must not be kept or put into the same room with other prisoners, nor shall male and female prisoners (except husband and wife) be kept or put into the same room.

(3) Juveniles may be confined only under conditions that comply with 41-5-306(2)."

Section 17. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) When a county jail or building contiguous to it is on fire and

there is reason to believe that the prisoners may be injured or endangered, the sheriff, jail administrator, or private party jailer must remove them to a safe and convenient place and there confine them as long as it may be necessary to avoid the danger.

(2) When a pestilence or contagious disease breaks out in or near a jail and the physician thereof certifies that it is likely to endanger the health of the prisoners, the district judge may by a written appointment designate a safe and convenient place in the county or the jail in a contiguous county as the place of their confinement. The appointment must be filed in the office of the clerk and authorize the sheriff, jail administrator, or private party jailer to remove the prisoners to the designated place or jail and there confine them until they can be safely returned to the jail from which they were taken.

(3) If in the opinion of the sheriff, jail administrator, or private party jailer any prisoner, while detained, requires medication, medical services, or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the prisoner is being detained. The county attorney shall initiate proceedings to collect any charges arising from such medical services or hospitalization for the

prisoner involved if it is determined the prisoner is financially able to pay."

-End-

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 9, 1985

The twentieth meeting of the Local Government Committee was called to order at 12:20 p.m. on March 9, 1985 by Chairman Dave Fuller in Room 405 of the Capitol Building.

ROLL CALL: All members were present with the exception of Senator Story, who was excused.

ACTION TAKEN ON SENATE BILL 293: Senator Eck moved to insert the number three in place of ten in amendment number seven. The motion passed unanimously with Senator Story absent.

Senator Mohar moved the remaining amendments be adopted. The motion passed unanimously with Senator Story absent.

Senator Crippen moved the Committee adopt an amendment to remove "or by a resolution of the governing body" on line three, Page 2 and to strike the word "either" on line two, Page 2. The motion passed with Senators Crippen, Eck, Harding, McCallum, and Mohar voting yes and Senators Hirsch, Pinsoneault, Regan, and Fuller voting no.

Senator Pinsoneault moved that SB 293 DO PASS as amended. The motion failed with Senators Crippen, Harding, Hirsch, McCallum, Mohar, and Story (absentee vote) voting no and Senators Eck, Pinsoneault, Regan, and Fuller voting yes.

Senator McCallum moved that SB 293 be TABLED. The motion passed unanimously with Senator Story absent.

CONSIDERATION OF HOUSE BILL 248: Representative Ted Schye, District #18, is the sponsor of this bill. The bill was introduced to require one hundred percent deposit security for local government deposits in institutions having a net worth to total assets ratio of less than six percent.

PROPONENTS

Gordon Morris, representing the Montana Association of Counties, stated his support of the bill.

Charles Gravely, representing the Montana County Treasurers' Association, stated his support of the bill.

OPPONENTS

There were no opponents to HB 248.

CONSIDERATION OF HOUSE BILL 277: Represenative Rex Manuel, District #11, is the sponsor of this bill. The bill was introduced at the request of the Board of Crime Control. The purpose of the bill is to allow counties to establish and fill the position of jail administrator or to enter into agreements under which private parties will build, maintain, or operate jails, and provide for financing of jails.

PROPONENTS

Ed Hall, representing the Board of Crime Control, spoke in favor of the bill. He distributed a study done on jails by the Board of Crime Control. The study is attached as Exhibit C to these minutes.

Harold Hanser, Yellowstone County Attorney, spoke in favor of the bill. He said this is a way for local governments to cut costs to the taxpayers.

Mark Murphy, Assistant Attorney General, spoke in favor of the bill. He submitted a proposed amendment to the bill. It is attached as Exhibit D to these minutes.

Gordon Morris, representing the Montana Association of Counties, spoke in favor of the bill. He said the bill gives local elected officials the ability to control their own destiny.

OPPONENTS

Walter Hammermeister, Sheriff of Pondera County, spoke in opposition to the bill. He said the Montana Sheriffs' and Peace Officers' Association has always opposed this bill. He feels the bill is poorly written and needs a major overhaul. He also feels the bill would protect counties from any liability.

Chairman Fuller opened the hearing for questions.

Senator Eck asked why there was a limit for the private entity to run the jail for only three years. Representative Manuel said conditions could get very poor if they were allowed to go beyond three year periods.

Senator Mohar asked if this would still be a voted bond issue. Mr. Murphy said it would be.

Senator McCallum said he did not think a county could relieve themselves of liability even if they contract out the operation of the jail. Mr. Hanser said there would be a hold harmless clause for the county officials included in the contract.

Senator Fuller expressed concern about the jails having to meet standards. Mr. Hall said standards would be spelled out in the contract.

CONSIDERATION OF HOUSE BILL 299: Representative Ralph Eudaily, District #60, is the sponsor of this bill. The bill was introduced to allow certain county printing contracts to be awarded to printing establishments not within the county if a responsible nonresident bid is more than five percent lower than resident bidders.

PROPONENTS

Mike Sehestedt, representing Missoula County, spoke in favor of the bill. He submitted written testimony from Missoula County regarding the bill. It is attached as Exhibit E to these minutes. He said the bill would give counties the option of saving large amounts of money.

Gordon Morris, representing the Montana Association of Counties, stated his support of the bill.

OPPONENTS

There were no opponents to HB 299.

Chairman Fuller opened the hearing for questions.

Senator Fuller said there were some concerns about newspapers that operate commercial printing plants. Mr. Sehestedt said these newspapers would be first in line to receive the bids.

The hearing was closed on HB 299.

ACTION TAKEN ON HOUSE BILL 299: Senator Mohar moved that HB 299 be concurred in. The motion passed unanimously with Senator Story absent. Senator Mohar will carry the bill.

CONSIDERATION OF HOUSE BILL 328: Representative Tom Hannah, District #86, is the sponsor of this bill. The bill was introduced to eliminate the option of a single local financial institution to match the interest rate of bids for deposit of local government funds submitted by neighboring financial institutions, and requiring the local institution to submit a bid on the interest rate to be paid on time or savings deposits and repurchase agreements.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th
~~XXXXX~~ LEGISLATIVE SESSION -- 1985

Date 3-9-85

SENATE SEAT #	NAME	PRESENT	ABSENT	EXCUSED
13	Senator Crippen, Bruce (SB 293 amended) yes	✓		
18	Senator Eck, Dorothy yes	✓		
11	Senator Harding, Ethel yes	✓		
47	Senator Hirsch, Les No	✓		
4	Senator McCallum, George yes	✓		
28	Senator Mohar, John (V.Chair) yes	✓		
4	Senator Pinsoneault, Dick No	✓		
19	Senator Regan, Pat No	✓		
21	Senator Story, Pete			✓
43	Senator Fuller, Dave (Chair) No	✓		

Each day attach to minutes.

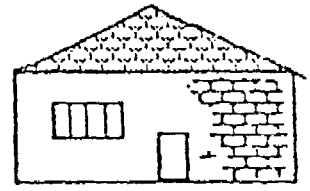
84

LOCAL GOVERNMENT COMMITTEE
MARCH 9, 1985
EXHIBIT C

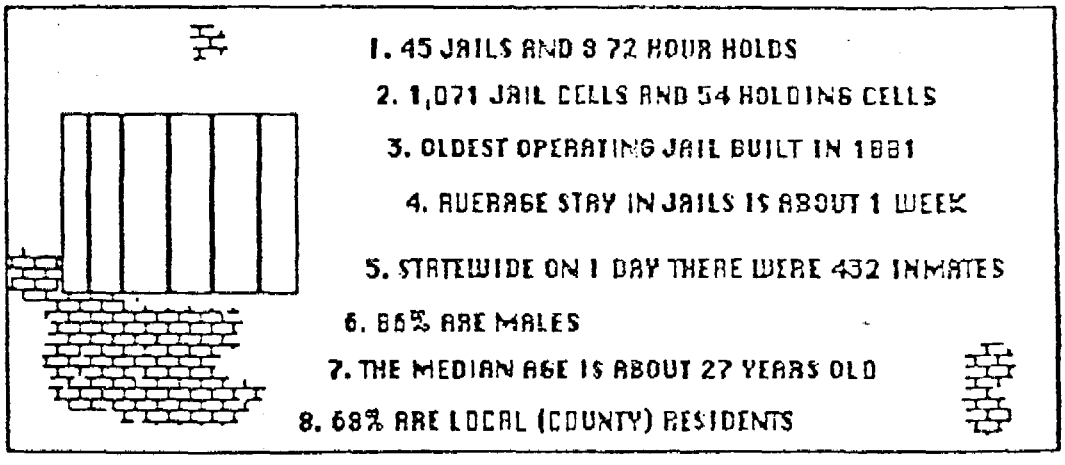
Submitted by
Ed Hall, Board
of Crime Control.
*HB277

JAILS

HB 277

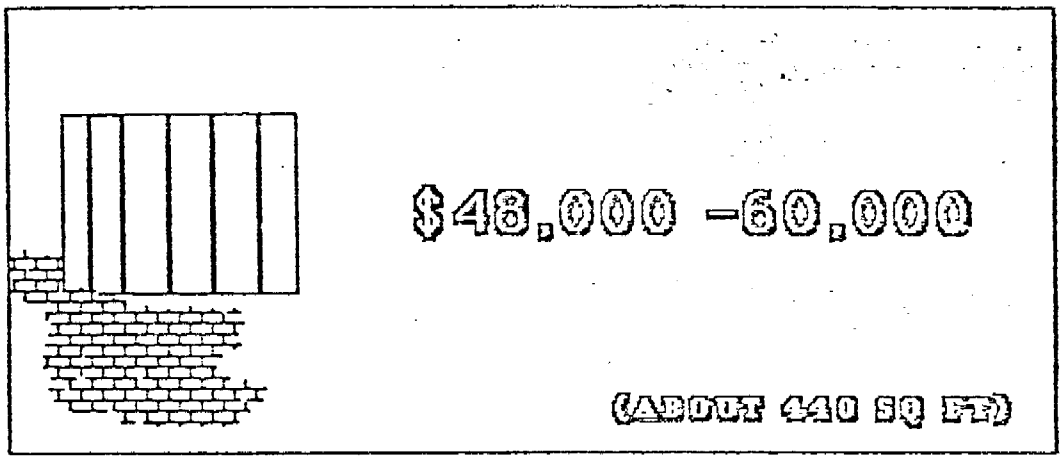


MONTANA JAIL FACTS


1. 45 JAILS AND 8 72 HOUR HOLDS
2. 1,071 JAIL CELLS AND 54 HOLDING CELLS
3. OLDEST OPERATING JAIL BUILT IN 1881
4. AVERAGE STAY IN JAILS IS ABOUT 1 WEEK
5. STATEWIDE ON 1 DAY THERE WERE 432 INMATES
6. 86% ARE MALES
7. THE MEDIAN AGE IS ABOUT 27 YEARS OLD
8. 68% ARE LOCAL (COUNTY) RESIDENTS

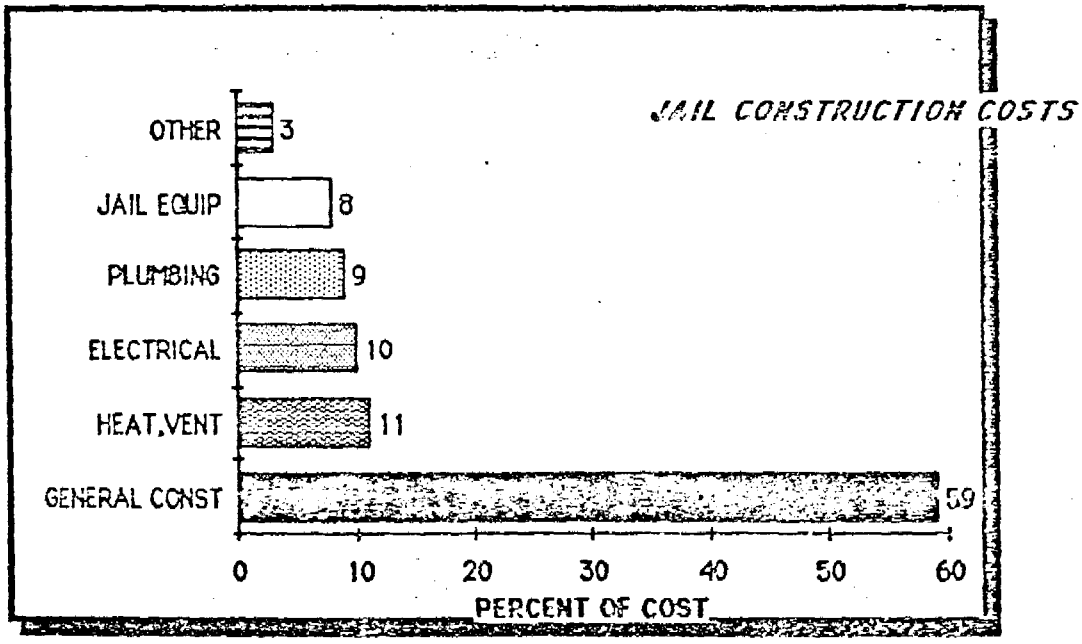
SOURCE: MONTANA BOARD OF CRIME CONTROL

JAIL CONSTRUCTION COSTS PER CELL



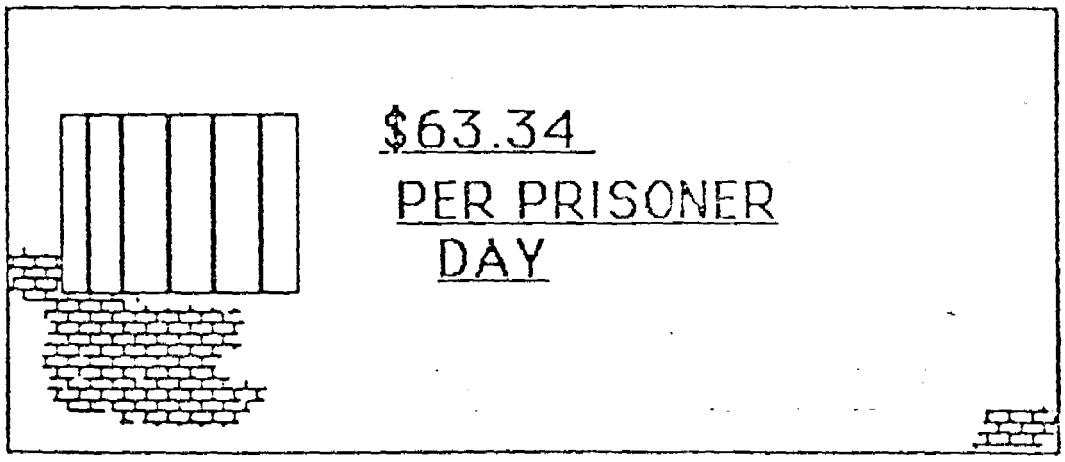
SOURCE: COST OF CONSTITUTIONAL JAILS 1982

THE COST OF JAIL CONSTRUCTION



source: Cost Of Constitutional Jails-1982

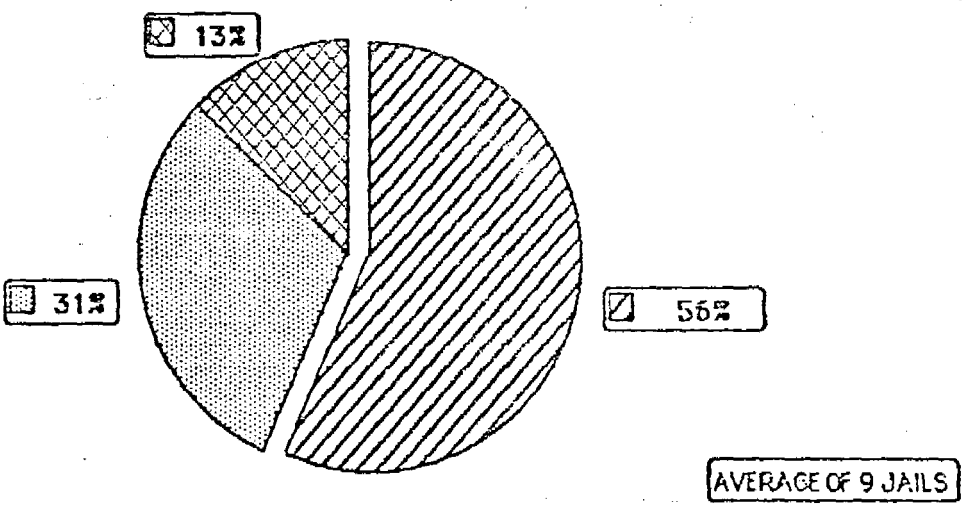
DAILY JAIL OPERATIONS COSTS



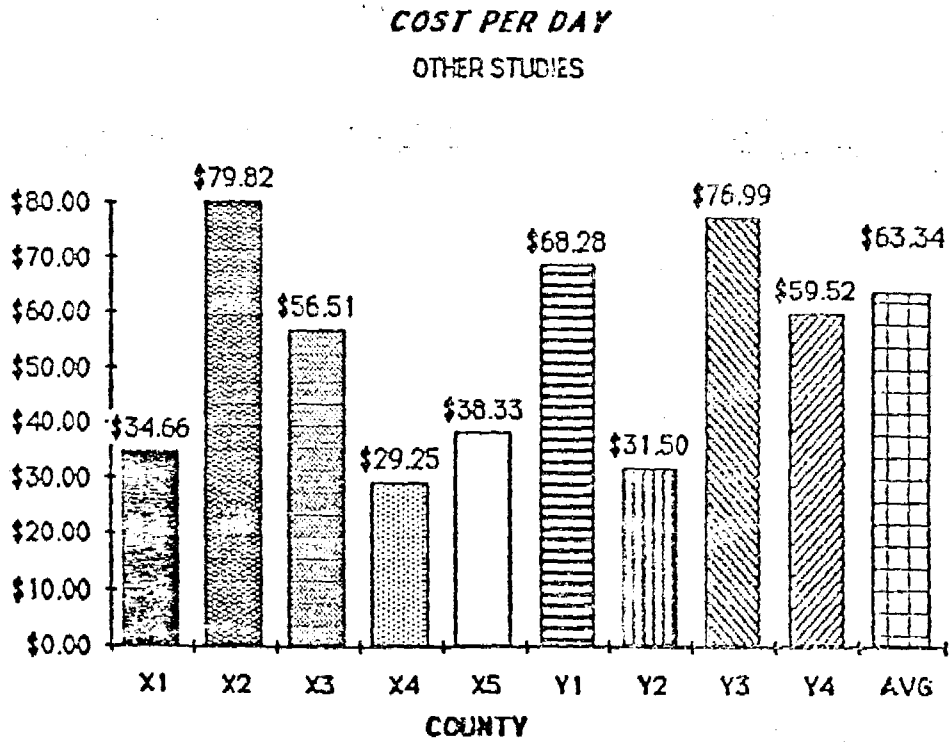
SOURCE: 9 MONTANA JAILS-1984 : MBCC

NINE COUNTY JAILS--1984

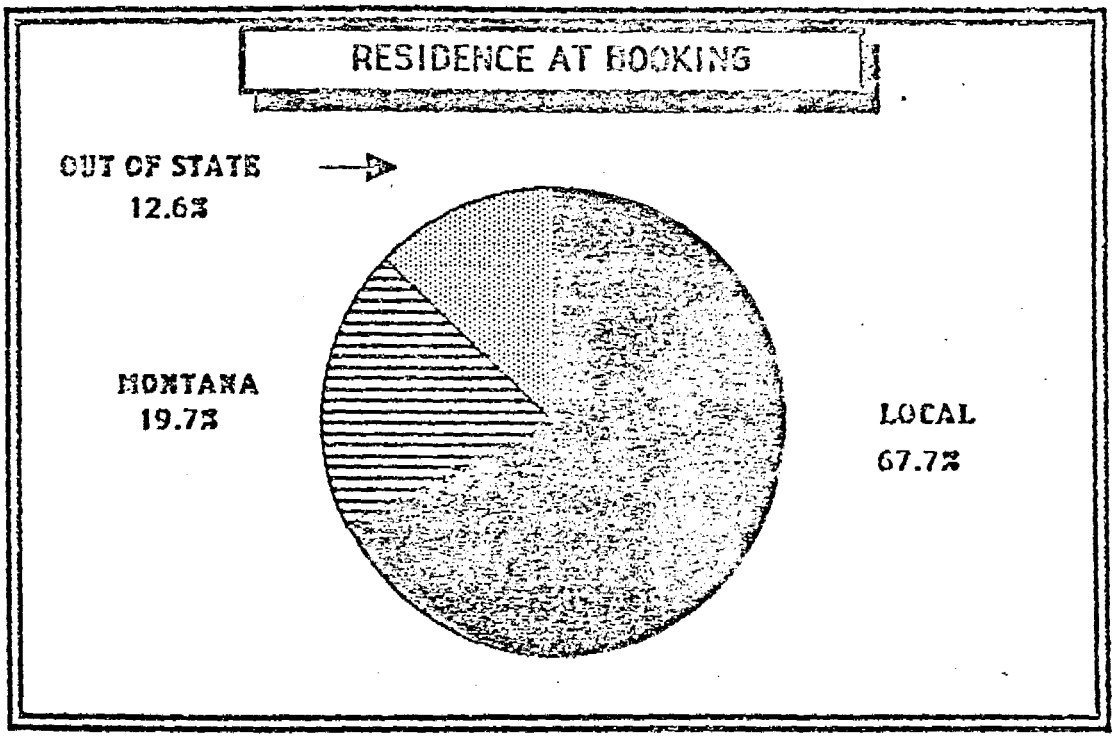
JAIL EXPENSES

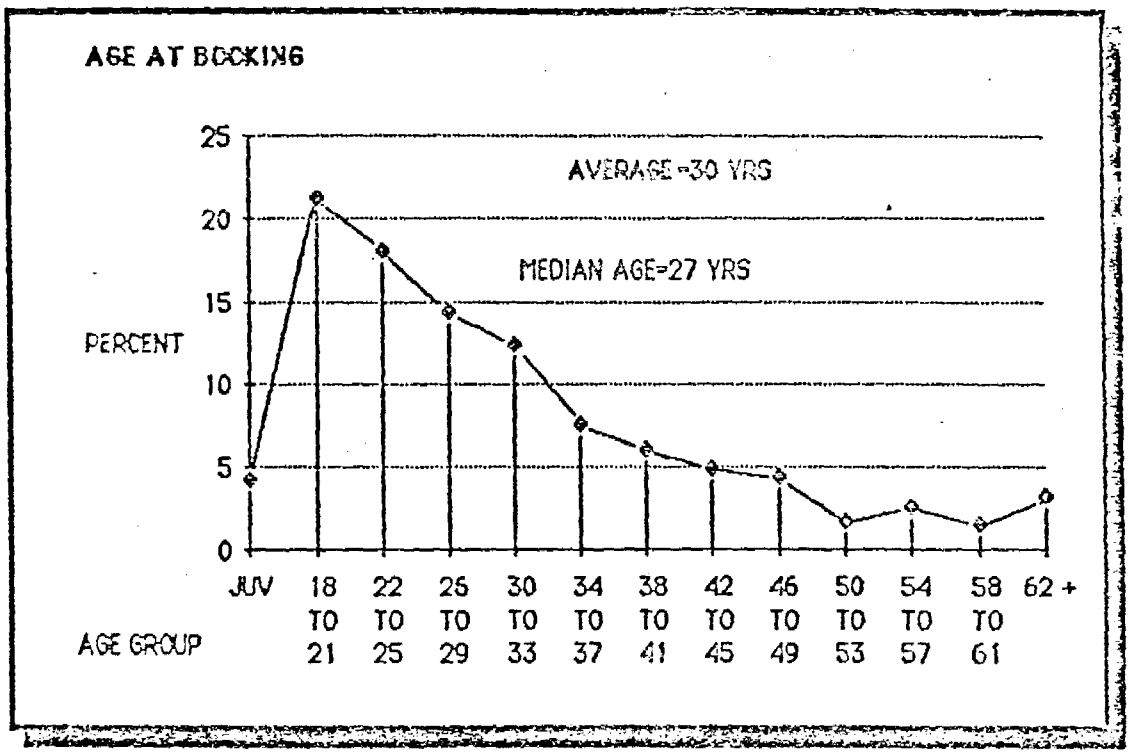


NINE COUNTY JAILS--1984 other studies

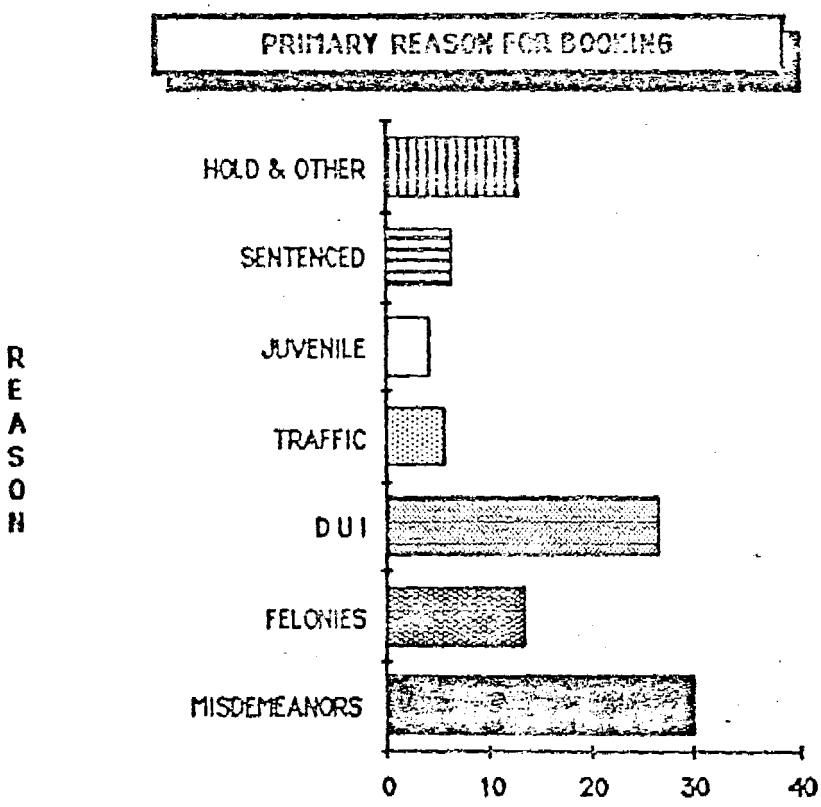


NINE COUNTY JAILS--1984

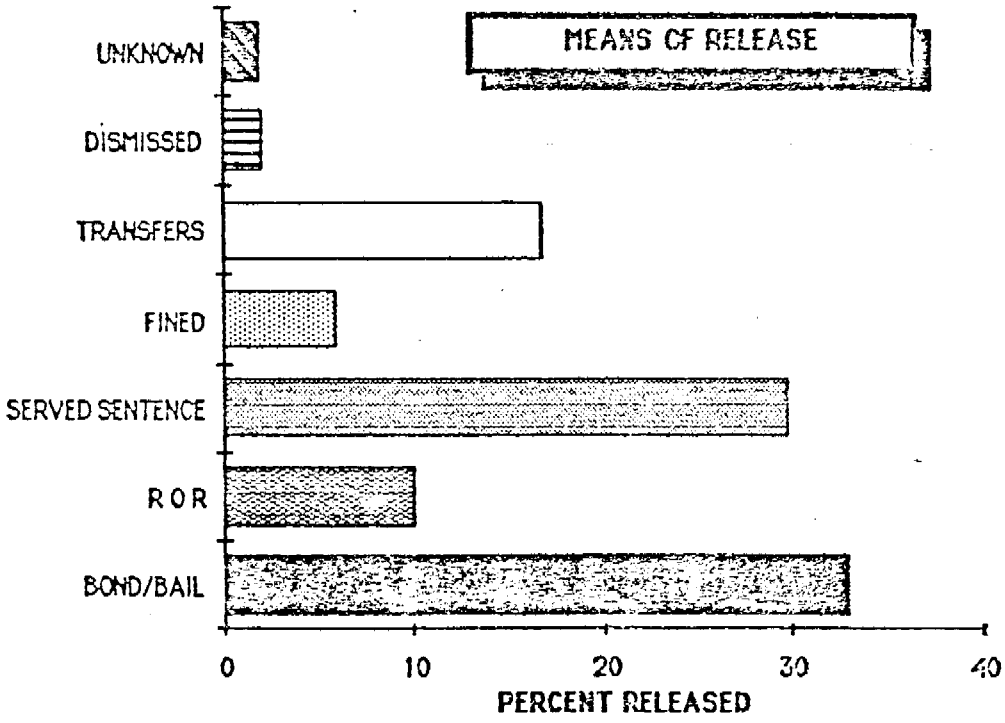



AGE AT BOOKING
AVERAGE=30 YRS
MEDIAN AGE=27 YRS
PERCENT
25
20
15
10
5
0
JUV
18 TO 21
22 TO 25
26 TO 29
30 TO 33
34 TO 37
38 TO 41
42 TO 45
46 TO 49
50 TO 53
54 TO 57
58 TO 61
62 +
AGE GROUP

NINE COUNTY JAILS--1984

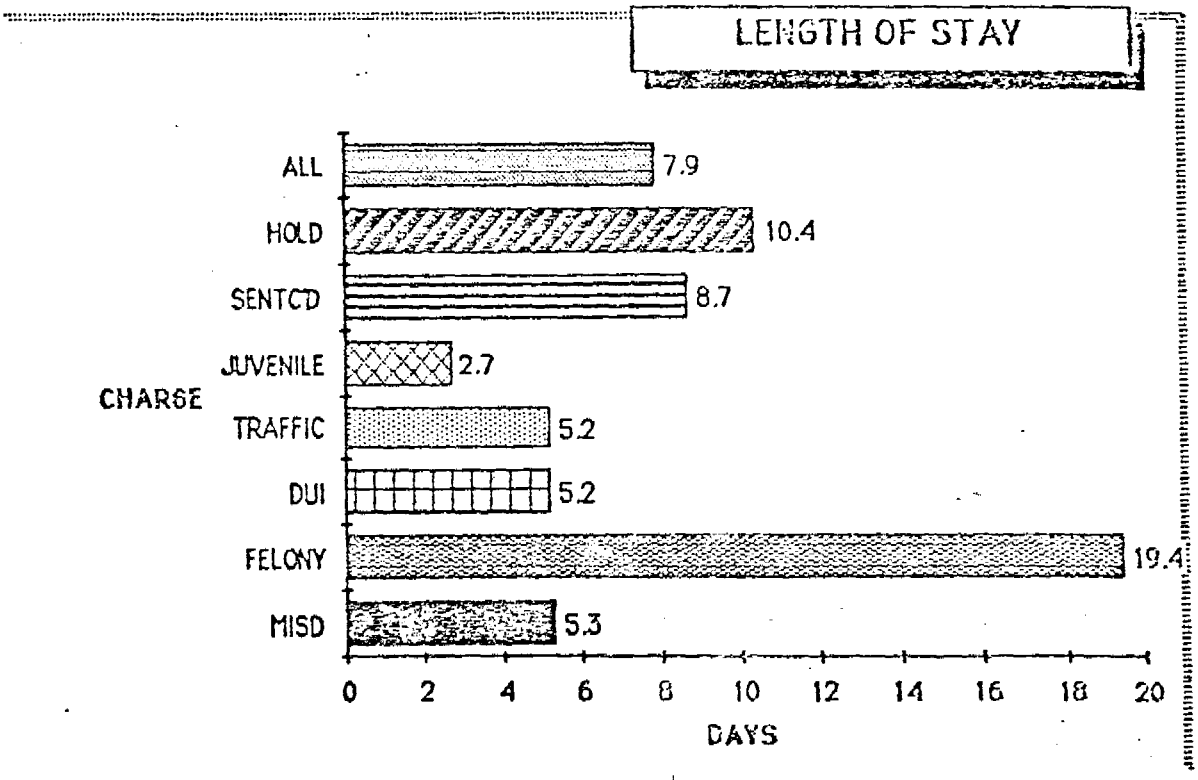


NINE COUNTY JAILS--1984



MONTANA BOARD OF CRIME CONTROL

LENGTH OF STAY



MARK MURPHY -

LOCAL GOVERNMENT COMMITTEE
MARCH 9, 1985
EXHIBIT D

Amendments to House Bill 277

7-7-2201. Purposes for which general obligation bonds of a county may be issued. The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate, and sell coupon bonds on the credit of the county, as more specifically provided in this part, for any of the following purposes:

(1) acquiring land for sites and grounds for a public building or buildings of any kind within the county and under its control, which the county has lawful authority to acquire or erect, control, and maintain; except if the bonds are sold to fund a multi-county jail facility, funds so raised may be used in the county in which the multi-county jail facility is located;

(2) acquiring land for any other public use or activity within the county, under its control and authorized by law;

(3) constructing, erecting, or acquiring by purchase necessary public buildings within the county, under its control and authorized by law; making additions to and repairing buildings; and furnishing and equipping the same; except if the bonds are sold to fund a multi-county jail facility, funds so raised may be used in the county in which the multi-county jail facility is located;

(4) building, purchasing, constructing, and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;

(5) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of any county boundary line;

(6) funding, paying, and retiring outstanding county warrants lawfully issued against the county general fund, road fund, bridge fund, or poor fund when:

(a) there is not sufficient money in the fund against which such warrants are drawn to pay and retire such warrants; and

(b) the levying of taxes sufficient to pay and retire such warrants within a period of 3 years would, in the judgment of the board, work a hardship and be an undue burden upon the taxpayers of the county.

DATE 3-9-85

COMMITTEE ON LOCAL GOVT

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
Riley Johnson	NFIB	263	✓	
MARK J MURPHY	A.G.	277	✓	
Mike Schestedt	Missoula County	HB299	✓	
Ed Hall	MBCC	277	✓	
Harold Hanser	Yellowstone County Atty	277	✓	
Frank Haffeker	Bd of Crime Control	277	✓	
D. Morris	MMCo	~~248~~ 277 299	✓	
Marie McClear	Madison County	277	✓	
Michael Hunt	MT ST. FIREMAN Assoc	277		
John Fitzpatrick	Montana Taxpayers Assoc	277	✓	
Steve Nelson	Bd Crime Control	277	✓	

(Please leave prepared statement with Secretary)

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 12, 1985

The twenty-first meeting of the Local Government Committee was called to order at 12:30 p.m. on March 12, 1985 by Chairman Dave Fuller in Room 405 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 379: Representative Rodney Garcia, District #93, is the sponsor of this bill. The bill was introduced to provide optional publication requirements for minutes of and claims ordered paid by boards of county commissioners, and providing an immediate effective date.

PROPONENTS

Gordon Morris, representing the Montana Association of Counties, spoke in favor of the bill. He said if the claims could be summarized when published, the savings would be at least sixty six percent. The public needs could be served by the county commissioners making this a matter of record and available to the public but not published in full each time. This is a disservice to the taxpayers and a subsidy to the newspapers.

Dwight Mackay, Chairman of the Yellowstone County Commissioners, spoke in favor of the bill. He said they spend six to seven thousand dollars a year to publish these items in the Billings Times. Cities and schools are not required to publish these items. He submitted a copy of a publication which cost the county four hundred and ninety two dollars to publish. It is attached as Exhibit A to these minutes.

Joe Garfield, Toole County Commissioner, said the bill would cut costs for counties.

Carol Kirkland, Secretary for the Lewis and Clark County Commissioners, spoke in favor of the bill. She said in the five years she has worked for the county commissioners, one person has called to ask for information regarding claims.

OPPONENTS

Verle Rademacher, editor of the Meagher County News in White Sulphur Springs, spoke in opposition to the bill. His written testimony is attached as Exhibit B to these minutes.

RECONSIDERATION OF HOUSE BILL 328: HB 328 was CONCURRED IN by the Committee on March 9, 1985. Karen Renne explained the coordinating amendment which makes HB 328 void if SB 416 passes.

Senator McCallum moved the Committee reconsider action taken on HB 328. The motion passed unanimously.

Senator McCallum moved that HB 328 be TABLED. The motion passed unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 277: Senator Eck and other Senators expressed concern about the matter of whose debt it would be if operation or building of jails were let to private entities. Gordon Morris said that the liability cannot be waived in any case. The counties will always hold ultimate liability.

Senator Crippen suggested all language in the bill regarding the "building" of jails be stricken since it is causing so much confusion. Karen Renne will research this.

FURTHER CONSIDERATION OF HOUSE BILL 436: Karen Renne will draft an amendment to designate a conservation district board member as an eligible appointee from the existing categories of appointment to the city-county planning board rather than adding them as an additional member.

ACTION TAKEN ON HOUSE BILL 379: Senator Eck moved that SB 379 BE CONCURRED IN. The motion passed with Senator Pinsoneault voting no. Senators McCallum and Story were absent for the vote. Senator Mohar will carry the bill.

The meeting adjourned at 2:40 p.m.

Senator Dave Fuller, Chairman

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th
~~XXXX~~ LEGISLATIVE SESSION -- 1985

Date 3-12-85

SENATE SEAT #	NAME	PRESENT	ABSENT	EXCUSED
13	Senator Crippen, Bruce	✓		
18	Senator Eck, Dorothy	✓		
11	Senator Harding, Ethel	✓		
47	Senator Hirsch, Les	✓		
4	Senator McCallum, George	✓		
28	Senator Mohar, John (V.Chair)	✓		
44	Senator Pinsoneault, Dick	✓		
19	Senator Regan, Pat	✓		
21	Senator Story, Pete	✓		
43	Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 16, 1985

The twenty-third meeting of the Local Government Committee was called to order at 12:45 p.m. on March 16, 1985 in Room 405 of the Capitol Building by Chairman Dave Fuller.

ROLL CALL: Senators Crippen, Regan, and McCallum were excused. All other members were present.

CONSIDERATION OF HOUSE BILL 564: Representative Ron Miller, District #34, is the sponsor of this bill. The bill was introduced to allow cities and towns to pay accounts and demands by check.

PROPONENTS

Nathan Tubergen, Finance Director for the City of Great Falls, spoke in favor of the bill. He said this bill is basically an administrative change and the City of Great Falls would save twenty-four to twenty-six thousand dollars a year.

Bill Verwolf, representing the City of Helena and the Montana Clerks' and Treasurers' Association, stated his support of the bill.

Alec Hansen, representing the Montana League of Cities and Towns, stated his support of the bill.

Gordon Morris, representing the Montana Association of Counties, stated his support of the bill.

OPPONENTS

There were no opponents to HB 564.

Chairman Fuller opened the hearing for Committee questions.

Senator Harding asked if there would be an administrative problem in changing the system. Mr. Verwolf said steps would actually be eliminated.

Senator Fuller asked if this bill would remove the current policy of requiring two signatures on warrants. Mr. Verwolf said the requirement of two signatures would be the same for warrants and checks.

Senator Story asked if State warrants are treated the same as a check. Mr. Verwolf said State warrants are but municipality warrants are not.

make the charges much more equitable.

Bill Verwolf, representing the City of Helena and the Montana Clerks' and Treasurers' Association, stated his support of the bill.

Alec Hansen, representing the Montana League of Cities and Towns, stated his support of the bill.

OPPONENTS

There were no opponents to HB 746.

Chairman Fuller opened the hearing for Committee questions. There were no questions from the Committee on HB 746.

The hearing was closed on HB 746.

ACTION TAKEN ON HOUSE BILL 746: Senator Story moved that HB 746 BE CONCURRED IN. The motion passed unanimously. Senator Story will carry the bill.

ACTION TAKEN ON HOUSE BILL 277: Karen Renne explained the proposed amendments to the bill. They are attached as Exhibit D to these minutes.

Senator Eck moved the amendments be adopted. The motion passed unanimously.

Senator Eck moved that HB 277 as amended BE CONCURRED IN. The motion passed unanimously. Senator Pinsoneault will carry the bill.

The meeting adjourned at 1:30 p.m.

Senator Dave Fuller

Senator Dave Fuller, Chairman

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th
~~XXXX~~ LEGISLATIVE SESSION -- 1985

Date 3-14-85

SENATE SEAT #	NAME	PRESENT	ABSENT	EXCUSED
13	Senator Crippen, Bruce			✓
18	Senator Eck, Dorothy	✓		
11	Senator Harding, Ethel	✓		
47	Senator Hirsch, Les			
4	Senator McCallum, George			✓
28	Senator Mohar, John (V.Chair)	✓		
44	Senator Pinsoneault, Dick	✓		
19	Senator Regan, Pat	✓		✓ left at this meeting started
21	Senator Story, Pete	✓		
43	Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

LOCAL GOVERNMENT COMMITTEE
MARCH 16, 1985
EXHIBIT D

PROPOSED AMENDMENTS TO

1. Page 6, line 19.
Following: line 18
Insert: "Section 5. Section 7-7-2201, MCA, is amended to read:

"**7-7-2201. Purposes for which general obligation bonds of a county may be issued.** The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate, and sell coupon bonds on the credit of the county, as more specifically provided in this part, for any of the following purposes:

(1) acquiring land for sites and grounds for a public building or buildings of any kind within the county and under its control, which the county has lawful authority to acquire or erect, control, and maintain; ~~.~~

except that if the bonds are sold to fund a multi-county jail facility, funds so raised may be used in the county in which the multi-county jail facility is located;

(2) acquiring land for any other public use or activity within the county, under its control and authorized by law;

(3) constructing, erecting, or acquiring by purchase necessary public buildings within the county, under its control and authorized by law; making additions to and repairing buildings; and furnishing and equipping the same; ~~+~~

except that if the bonds are sold to fund a multi-county jail facility, funds so raised may be used in the county in which the multi-county jail facility is located;

(4) building, purchasing, constructing, and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;

(5) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of any county boundary line;

(6) funding, paying, and retiring outstanding county warrants lawfully issued against the county general fund, road fund, bridge fund, or poor fund when:

(a) there is not sufficient money in the fund against which such warrants are drawn to pay and retire such warrants; and

(b) the levying of taxes sufficient to pay and retire such warrants within a period of 3 years would, in the judgment of the board, work a hardship and be an undue burden upon the taxpayers of the county."

Section 6. Section 7-7-2203, MCA, is amended to read:

through (4)

"**7-7-2203. Limitation on amount of bonded indebtedness.** (1) Except as provided in subsections (2) ~~and (3)~~, no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the taxable value of the property therein, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

105

he property in
e county subject
taxation,

In addition to the bonds allowed by subsection (1), a (2) ~~A~~ county may issue bonds which, with all outstanding bonds and warrants, ~~will exceed 11.25% but~~ will not exceed ~~27%~~ 25.75% of the taxable value of ~~such property,~~ when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

(4) in subsection (1)

~~(3)~~ The ~~foregoing~~ limitation shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932.)) »

, Renumber: subsequent sections

2. Page 11, line 12.
Following: "county,"
Strike: "and"
Insert: "or"

3. Page 12, line 5.
Following: "county"
Strike: "and"
Insert: "or"

4. Page 13, line 5.
Following: "sheriffs"
Strike: "and"
Insert: "or"

STANDING COMMITTEE REPORT

MARCH 18 19 85

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE BILL No. 277

THIRD reading copy (BLUE color)

(PINSONEAULT WILL CARRY)

ALLOW PRIVATE PARTIES TO RUN JAILS; EXEMPT JAILS FROM FINANCING LIMITS

Respectfully report as follows: That HOUSE BILL No. 277

be amended as follows:

1. Title, line 12.
Following: "~~7-7-2221~~"
Insert: "7-7-2101, 7-7-2203"

2. Page 6, line 19.
Following: line 18
Insert: "Section 5. Section 7-7-2201, MCA, is amended to read:

"7-7-2201. Purposes for which general obligation bonds of a county may be issued. The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate, and sell coupon bonds on the credit of the county, as more specifically provided in this part, for any of the following purposes:

(1) acquiring land for sites and grounds for a public building or buildings of any kind within the county and under its control, which the county has lawful authority to acquire or erect, control, and maintain except that if the bonds are sold to fund a multi-county jail facility, funds so raised may be used in the county in which the multi-county jail facility is located;

(continued)

KB

DO PASS

DO NOT PASS

Chairman.

March 18 19 85

(2) acquiring land for any other public use or activity within the county, under its control and authorized by law;

(3) constructing, erecting, or acquiring by purchase necessary public buildings within the county, under its control and authorized by law; making additions to and repairing buildings; and furnishing and equipping the same except that if the bonds are sold to fund a multi-county jail facility, funds so raised may be used in the county in which the multi-county jail facility is located;

(4) building, purchasing, constructing, and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;

(5) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of any county boundary line;

(6) funding, paying, and retiring outstanding county warrants lawfully issued against the county general fund, road fund, bridge fund, or poor fund when:

(a) there is not sufficient money in the fund against which such warrants are drawn to pay and retire such warrants; and

(b) the levying of taxes sufficient to pay and retire such warrants within a period of 3 years would, in the judgment of the board, work a hardship and be an undue burden upon the taxpayers of the county."

Section 6. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) ~~and (3)~~ through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the taxable value of the property therein, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(continued)

March 18 19 85

(2) A In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, ~~will exceed 11.25% but~~ will not exceed ~~37%~~ 25.75% of the taxable value of ~~such property,~~ the property in the county subject to taxation, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

~~(3)~~ (4) The ~~foregoing~~ limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932.""

Renumber: subsequent sections

3. Page 11, line 12.
Following: "county,"
Strike: "and"
Insert: "or"

4. Page 12, line 5.
Following: "county"
Strike: "and"
Insert: "or"

5. Page 13, line 5.
Following: "sheriffs"
Strike: "and"
Insert: "or"

AND AS AMENDED

BE CONCURRED IN

3-20-1985 Senate Journal
Reports of Standing Committees

2. Page 3, lines 1 through 9.
Strike: line 1 through "(4)" on line 9

And, as amended, be concurred in. Report adopted.

LABOR AND EMPLOYMENT RELATIONS (Lynch, Chairman): 3/19/85
HB 453, be concurred in. Report adopted.
HB 554, third reading copy, be amended as follows:

1. Page 2, line 16; page 4, line 22; and page 6, line 7.
Following: "PROJECTS" on each line
Insert: "in the same manner as preference is granted to veterans under 39-30-201"

And, as amended, be concurred in. Report adopted.

HB 599, be concurred in. Report adopted.

LEGISLATIVE ADMINISTRATION (Blaylock, Chairman): 3/15/85
HB 782, be concurred in. Report adopted.
HB 910, third reading copy, be amended as follows:

1. Page 1, line 22.
Following: "5-17-101"
Strike: "."
Following: "~~such~~"
Insert: "; however, such"

2. Page 1.
Strike: lines 23, 24 and 25 in their entirety

3. Page 2, line 1.
Strike: "SUCH"

And, as amended, be concurred in. Report adopted.

LOCAL GOVERNMENT (Fuller, Chairman): 3/18/85
HB 277, third reading copy, be amended as follows:

1. Title, line 12.
Following: "~~7-7-2221,~~"
Insert: "7-7-2201, 7-7-2203,"

2. Page 6.
Following: line 18
Insert: "Section 5. Section 7-7-2201, MCA, is amended to read:

"7-7-2201. Purposes for which general obligation bonds of a county may be issued. The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate, and sell coupon bonds on the credit of the county, as more specifically provided in this part, for any of the following purposes:

(1) acquiring land for sites and grounds for a public building or buildings of any kind within the county and under its control, which the county has lawful authority to acquire or erect, control, and maintain except that if the bonds are sold to fund a multicounty jail facility, funds so raised may be used in the county in which the multicounty jail facility is located;

(2) acquiring land for any other public use or activity within the county, under its control and authorized by law;

(3) constructing, erecting, or acquiring by purchase necessary public buildings within the county, under its control and authorized by law;

making additions to and repairing buildings; and furnishing and equipping the same except that if the bonds are sold to fund a multicounty jail facility, funds so raised may be used in the county in which the multicounty jail facility is located;

(4) building, purchasing, constructing, and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;

(5) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of any county boundary line;

(6) funding, paying, and retiring outstanding county warrants lawfully issued against the county general fund, road fund, bridge fund, or poor fund when:

(a) there is not sufficient money in the fund against which such warrants are drawn to pay and retire such warrants; and

(b) the levying of taxes sufficient to pay and retire such warrants within a period of 3 years would, in the judgment of the board, work a hardship and be an undue burden upon the taxpayers of the county."

Section 6. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) ~~and (3)~~ through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the taxable value of the property therein, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) ~~A~~ In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, ~~will exceed 11.25% but~~ will not exceed ~~37%~~ 25.75% of the taxable value of ~~such property,~~ the property in the county subject to taxation, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

~~(3)~~(4) The ~~foregoing~~ limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932.""

Renumber: subsequent sections

3. Page 11, line 12.
Following: "county,"
Strike: "and"
Insert: "or"

4. Page 12, line 5.
Following: "county"
Strike: "and"
Insert: "or"

110

5. Page 13, line 5.
Following: "sheriffs"
Strike: "and"
Insert: "or"

And, as amended, be concurred in. Report adopted.

HB 384, be concurred in. Report adopted.
HB 505, be concurred in. Report adopted.
HB 558, third reading copy, be amended as follows:

1. Title, line 6.
Following: "SERVICES"
Insert: "AND INCREASING THE TIME ALLOWED FOR RECEIVING WRITTEN EXPRESSIONS OF APPROVAL OR DISAPPROVAL"

2. Page 1, line 11.
Following: "period of"
Strike: "20"
Insert: "45"

And, as amended, be concurred in. Report adopted.

HB 727, third reading copy, be amended as follows:

1. Title, line 7.
Following: "~~CONTAMINATION~~"
Insert: "AND TO PROTECT GROUND WATER FROM CONTAMINATION"

2. Page 3, line 12.
Following: "lives~~.~~;"
Strike: "AND"

3. Page 3, line 19.
Following: "~~and~~"
Strike: "."
Insert: "; and"

4. Page 3, line 24.
Following: "~~water.~~"
Insert: "(vi) to protect ground water from chemical and bacterial contamination from surface runoff, bulk materials transport and storage facilities, and other sources that could affect the present or future beneficial uses of ground water on adjacent properties."

And, as amended, be concurred in. Report adopted.

STATE ADMINISTRATION (Haffey, Chairman): 3/20/85
HB 724, third reading copy, be amended as follows:

1. Title, line 6.
Following: "IN"
Strike: remainder of line 6
Insert: "AN"

2. Title, line 7.
Following: "YEAR"
Insert: ", ON THE NEXT REGULAR SCHOOL ELECTION DAY, OR BY MAIL BALLOT"

3. Page 1, line 15.
Strike: "either"

2nd Reading - Committee of Whole

HB 277 - That HB 277 be concurred in. Motion carried as follows:

Ayes: Aklestad, Anderson, Bengtson, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Eck, Farrell, Fuller, Gage, Galt, Goodover, Haffey, Halligan, Hammond, Harding, Himsl, Hirsch, Jacobson, Keating, Kolstad, Lane, Lybeck, Manning, Mazurek, McCallum, Neuman, Pinsoneault, Regan, Severson, Shaw, Smith, Stephens, Stimatz, Story, Thayer, Towe, Tveit, Van Valkenburg, Weeding, Williams, Yellowtail, Mr. President.
Total 46

Noes: Daniels, Lynch, Mohar.
Total 3

Excused: Hager.
Total 1

Absent or not voting: None.
Total 0

Senator Pinsoneault in the Chair.

HB 453 - That HB 453 be concurred in. Motion carried as follows:

Ayes: Aklestad, Anderson, Bengtson, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Eck, Farrell, Fuller, Gage, Galt, Goodover, Haffey, Halligan, Hammond, Harding, Himsl, Hirsch, Jacobson, Kolstad, Lane, Lybeck, Lynch, Manning, Mazurek, McCallum, Mohar, Neuman, Pinsoneault, Regan, Severson, Shaw, Smith, Stephens, Stimatz, Story, Thayer, Towe, Tveit, Van Valkenburg, Weeding, Williams, Yellowtail, Mr. President.
Total 48

Noes: Keating.
Total 1

Excused: Hager.
Total 1

Absent or not voting: None.
Total 0

Senator Hager present at this time.

HB 454 - At the request of Senator Eck, and without objection, consideration on HB 454 be passed.

HB 506 - That HB 506 be concurred in. Motion carried as follows:

Ayes: Aklestad, Anderson, Bengtson, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Eck, Farrell, Fuller, Gage, Galt, Goodover, Haffey, Hager, Halligan, Hammond, Harding, Himsl, Hirsch, Jacobson, Keating, Kolstad, Lane, Lybeck, Lynch, Manning, Mazurek, McCallum, Mohar, Neuman, Pinsoneault, Regan, Severson, Shaw, Smith, Stephens, Stimatz, Story, Thayer, Towe, Tveit, Van Valkenburg, Weeding, Williams, Yellowtail, Mr. President.
Total 50

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.

112

66th Legislative Day
3-27-1985

SB 326, introduced by Himsl, et al.

SB 332, introduced by Towe, et al.

SB 380, introduced by Thayer, et al.

SB 420, introduced by Van Valkenburg

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 155, House amendments, concurred in as follows:

Ayes: Aklestad, Anderson, Bengtson, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Eck, Farrell, Fuller, Gage, Galt, Goodover, Haffey, Hager, Halligan, Hammond, Harding, Himsl, Hirsch, Jacobson, Keating, Kolstad, Lane, Lybeck, Lynch, Manning, Mazurek, McCallum, Mohar, Neuman, Pinsoneault, Regan, Severson, Smith, Stephens, Stimatz, Story, Thayer, Towe, Tveit, Van Valkenburg, Weeding, Williams, Yellowtail, Mr. President.
Total 49

Noes: Shaw.
Total 1

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 277 concurred in as follows:

Ayes: Aklestad, Anderson, Bengtson, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Eck, Farrell, Fuller, Gage, Galt, Goodover, Haffey, Hager, Halligan, Hammond, Harding, Himsl, Hirsch, Jacobson, Keating, Kolstad, Lane, Lybeck, Manning, Mazurek, McCallum, Neuman, Pinsoneault, Regan, Severson, Smith, Stephens, Stimatz, Story, Thayer, Towe, Tveit, Van Valkenburg, Weeding, Williams, Yellowtail, Mr. President.
Total 47

Noes: Lynch, Mohar, Shaw.
Total 3

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 453 concurred in as follows:

Ayes: Aklestad, Anderson, Bengtson, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Eck, Farrell, Fuller, Gage, Galt, Goodover, Haffey, Hager, Halligan, Hammond, Harding, Himsl, Hirsch, Jacobson, Kolstad, Lane, Lybeck, Lynch, Manning, Mazurek, McCallum, Mohar, Neuman, Pinsoneault, Regan, Severson, Smith, Stephens, Stimatz, Story, Thayer, Towe, Tveit, Van Valkenburg, Weeding, Williams, Yellowtail, Mr. President.
Total 48

Noes: Keating, Shaw.

2nd Reading

Patterson, Peck, Peterson, Phillips, Pistoria, Poff, Quilici, Raney, Rapp-Svrcek, Ream, Rehberg, Sales, Sands, Schultz, Schye, Simon, Smith, Spaeth, Swift, Switzer, Thoft, Thomas, Wallin, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 92

Noes: Waldron.
Total 1

Excused: Grady, McCormick, Menahan, Pavlovich.
Total 4

Absent or not voting: Nathe, Nelson, Ramirez.
Total 3

HB 263 - That Senate amendments to HB 263 be concurred in. Motion carried as follows:

Ayes: Addy, Asay, Bachini, Bardanouve, Bergene, Bradley, Brandewie, D. Brown, J. Brown, Campbell, Cobb, Cody, Cohen, Compton, Connelly, Darko, Devlin, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fritz, Garcia, Gilbert, Glaser, Gould, Hammond, Hand, Hannah, Hansen, Hanson, Harbin, Harp, Harper, Harrington, Hart, Hayne, Holliday, Howe, Iverson, Jenkins, Jones, Kadas, Keenan, Keller, Kennerly, Kitselman, Koehnke, Krueger, Lory, Manuel, Marks, Mercer, Miles, Miller, Montayne, J.K. Moore, J. Moore, Nathe, Nelson, Nisbet, O'Connell, O'Hara, Patterson, Peterson, Phillips, Pistoria, Poff, Quilici, Raney, Rapp-Svrcek, Ream, Rehberg, Sales, Sands, Schultz, Schye, Simon, Smith, Spaeth, Swift, Switzer, Thoft, Thomas, Waldron, Wallin, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 91

Noes: Peck.
Total 1

Excused: Grady, McCormick, Menahan, Pavlovich.
Total 4

Absent or not voting: Abrams, Donaldson, Keyser, Ramirez.
Total 4

HB 277 - That Senate amendments to HB 277 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bergene, Bradley, Brandewie, D. Brown, J. Brown, Campbell, Cobb, Cody, Cohen, Compton, Connelly, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fritz, Garcia, Gilbert, Glaser, Gould, Hammond, Hand, Hannah, Hansen, Hanson, Harbin, Harp, Harper, Harrington, Hart, Hayne, Holliday, Howe, Iverson, Jenkins, Jones, Kadas, Keenan, Keller, Kennerly, Kitselman, Koehnke, Krueger, Lory, Manuel, Marks, Mercer, Miles, Miller, Montayne, J.K. Moore, J. Moore, Nathe, Nelson, Nisbet, O'Connell, O'Hara, Patterson, Peck, Peterson, Phillips, Pistoria, Poff, Quilici, Ramirez, Raney, Rapp-Svrcek, Ream, Rehberg, Sales, Sands, Schultz, Schye, Simon, Smith, Spaeth, Swift, Switzer, Thoft, Thomas, Waldron, Wallin, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 95

Noes: None.
Total 0

Excused: Grady, McCormick, Menahan, Pavlovich.
Total 4

Absent or not voting: Keyser.
Total 1

HB 146 - That Senate amendments to HB 146 be not concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bergene, Bradley, Brandewie, D. Brown, J. Brown, Campbell, Cobb, Cody, Cohen, Compton, Connelly, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fritz, Garcia, Gilbert, Glaser, Gould, Hammond, Hand, Hannah, Hansen, Hanson, Harbin, Harp, Harper, Harrington, Hart, Hayne, Holliday, Howe, Iverson, Jenkins, Jones, Kadas, Keenan, Keller, Kennerly, Keyser, Kitselman, Koehnke, Krueger, Lory, Manuel, Marks, Mercer, Miles, Miller, Montayne, J.K. Moore, J. Moore, Nathe, Nelson, Nisbet, O'Connell, O'Hara, Patterson, Peck, Peterson, Phillips, Pistoria, Poff, Quilici, Ramirez, Raney, Rapp-Svrcek, Ream, Rehberg, Sales, Sands, Schultz, Schye, Simon, Smith, Spaeth, Swift, Switzer, Thoft, Thomas, Waldron, Wallin, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 96

Noes: None.
Total 0

Excused: Grady, McCormick, Menahan, Pavlovich.
Total 4

Absent or not voting: None.
Total 0

HB 187 - That Senate amendments to HB 187 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Bachini, Bardanouve, Bergene, Bradley, J. Brown, Cody, Cohen, Connelly, Darko, Eudaily, Fritz, Garcia, Hammond, Hand, Hansen, Hanson, Harbin, Harper, Harrington, Hart, Holliday, Howe, Kadas, Keenan, Kennerly, Koehnke, Krueger, Lory, Manuel, Miles, Montayne, J. Moore, Nisbet, O'Connell, Peck, Pistoria, Poff, Quilici, Raney, Rapp-Svrcek, Ream, Schye, Smith, Spaeth, Waldron, Williams, Zabrocki, Mr. Speaker.
Total 50

Noes: Asay, Brandewie, D. Brown, Campbell, Cobb, Compton, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Gilbert, Glaser, Gould, Hannah, Harp, Hayne, Iverson, Jenkins, Jones, Keller, Keyser, Kitselman, Marks, Mercer, Miller, J.K. Moore, Nathe, Nelson, O'Hara, Patterson, Peterson, Phillips, Ramirez, Rehberg, Sales, Sands, Schultz, Simon, Swift, Switzer, Thoft, Thomas, Wallin, Winslow.
Total 46

Excused: Grady, McCormick, Menahan, Pavlovich.
Total 4

Absent or not voting: None.
Total 0

Representative Harper moved that the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the Chair. Chairman Miles moved the adoption of the committee report. Report adopted. (92-3)

MOTIONS

Representative Harper moved that the House reconsider its action in failing to pass HB 500, third reading on the 70th legislative day. Motion carried.

Third Reading

Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fritz, Garcia, Gilbert, Glaser, Gould, Hammond, Hand, Hannah, Hansen, Hanson, Harbin, Harp, Harper, Harrington, Hayne, Holliday, Howe, Iverson, Jenkins, Jones, Kadas, Keenan, Keller, Keyser, Koehnke, Krueger, Lory, McCormick, Manuel, Marks, Menahan, Mercer, Miles, Miller, Montayne, J.K. Moore, J. Moore, Nathe, Nelson, Nisbet, O'Connell, O'Hara, Patterson, Pavlovich, Peck, Peterson, Phillips, Pistoria, Poff, Quilici, Ramirez, Raney, Rapp-Svrcek, Ream, Rehberg, Sales, Sands, Schultz, Schye, Simon, Smith, Spaeth, Swift, Switzer, Thoft, Thomas, Waldron, Wallin, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 95

Noes: None.
Total 0

Excused: Hart, Kennerly, Kitselman.
Total 3

Absent or not voting: Connelly, Grady.
Total 2

HB 277, Senate amendments, concurred in as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bergene, Bradley, Brandewie, D. Brown, J. Brown, Campbell, Cobb, Cody, Cohen, Compton, Connelly, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fritz, Garcia, Gilbert, Glaser, Gould, Grady, Hammond, Hand, Hannah, Hansen, Hanson, Harbin, Harp, Harper, Harrington, Hayne, Holliday, Howe, Iverson, Jenkins, Jones, Kadas, Keenan, Keller, Keyser, Koehnke, Krueger, Lory, McCormick, Manuel, Marks, Menahan, Mercer, Miles, Miller, Montayne, J.K. Moore, J. Moore, Nathe, Nelson, Nisbet, O'Connell, O'Hara, Patterson, Pavlovich, Peck, Peterson, Phillips, Pistoria, Poff, Quilici, Ramirez, Raney, Rapp-Svrcek, Ream, Rehberg, Sales, Sands, Schultz, Schye, Simon, Smith, Spaeth, Swift, Switzer, Thoft, Thomas, Waldron, Wallin, Williams, Winslow, Zabrocki, Mr. Speaker.
Total 97

Noes: None.
Total 0

Excused: Hart, Kennerly, Kitselman.
Total 3

Absent or not voting: None.
Total 0

FIRST READING AND COMMITMENT OF BILLS AND RESOLUTIONS

The following Senate bill was introduced, read first time, and referred to committee:

SJR 35, introduced by Blaylock. Referred to Committee on State Administration.

MOTIONS

Representative Keyser moved that the rules be temporarily suspended to allow the House to reconsider action on HB 826. Motion carried. (77-20)

Representative Sales moved that the rules be temporarily suspended to allow the House to reconsider HB 804. After discussion, Representative Patterson moved the previous question. Motion carried. Representative Sales' motion, requiring a ⅔ majority vote, failed. (57-40)

HOUSE BILL NO. 277

INTRODUCED BY MANUEL

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING OF JAILS ~~AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING LIMITATIONS~~; AND AMENDING SECTIONS ~~7-7-2101, 7-7-2203, 7-7-2221,~~ 7-7-2201, 7-7-2203, 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201, 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209, 7-32-2212, 7-32-2221, AND 7-32-2222, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. SECTION 1. PURPOSE. IT IS THE PURPOSE OF [SECTIONS 1 THROUGH 4] TO ALLOW REGIONAL OR SINGLE-COUNTY JAILS TO BE BUILT BY PRIVATE INDUSTRY AND LEASED BACK TO THE PARTICIPATING COUNTY OR COUNTIES FOR OPERATION BY THE COUNTY, COLLECTIVELY BY PARTICIPATING COUNTIES, OR BY A PRIVATE ENTITY WITH THE CONCURRENCE OF THE SHERIFF OR SHERIFFS INVOLVED.

NEW SECTION. Section 2. County jails -- contracts with private parties. (1) The term of an agreement under 7-32-2201 with a private party may not exceed 3 years.

(2) The agreement must include:

(a) detailed standards for the operation of the jail and the incarceration of prisoners;

(b) a performance bond from the private party acceptable to the county;

(c) a promise from the private party to indemnify the county for any damages for which the county is found liable as a result of the operation of the jail;

(d) a provision that the private party must purchase liability insurance in an amount acceptable to the county;

(e) minimum standards for the training of jailers and a provision that the private party will ensure such training; and

(f) a provision that the county may immediately terminate the contract for good cause.

(3) The provisions of Title 7 relating to bids for county contracts and purchases do not apply to a contract entered into under 7-32-2201 and this section.

NEW SECTION. Section 3. Requests for contract proposals. (1) A county seeking to enter into a contract under 7-32-2201 and [section ~~1~~ 2] may publish a request for proposals. The request for proposals must be published in a newspaper of general circulation in the county once a week

REFERENCE BILL

for 3 successive weeks and must include information concerning the type of jail services required.

(2) Requests for proposals must be sent to persons who have previously requested that their names be placed on a list of persons providing jail services. The Montana board of crime control shall maintain a list of persons providing jail services and furnish the list to a county upon request.

(3) In selecting a proposal and awarding a contract, a county need not accept the proposal with the lowest cost.

(4) The county must base its selection on demonstrated competence, knowledge and qualifications, the reasonableness of the services proposed, and the reasonableness of the proposed contract price for the jail services.

(5) A copy of all proposals must be kept available for public inspection in the office of the county clerk and recorder.

(6) The county must give specific reasons for its selection of a proposal. The reasons must be recorded in the minutes of the governing body of the county.

NEW SECTION. Section 4. Powers of jail administrators and private party jailers. A jail administrator or a private party acting as a jailer under an agreement, as provided for in 7-32-2201(2), ~~and his assistant jailers have the powers and duties of sheriffs~~ IS RESPONSIBLE FOR THE IMMEDIATE MANAGEMENT AND CONTROL OF THE JAIL SUBJECT TO GENERAL

POLICIES AND PROGRAMS ESTABLISHED PURSUANT TO THE AGREEMENT PROVIDED FOR IN 7-32-2201(2) AND ANY APPLICABLE INTERLOCAL AGREEMENT. THE POWERS OF SUCH AN ADMINISTRATOR AND CORRECTIONS PERSONNEL EMPLOYED UNDER HIS AUTHORITY INCLUDE CONTROL OVER PRISONERS:

(1) within the confines and grounds of the jail; and

(2) outside the jail confines and grounds while transporting any prisoner or in the HOT pursuit or apprehension of any escapee.

~~Section 4. Section 7-7-2101, MCA, is amended to read:~~

~~"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 23% of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, except that an additional indebtedness of up to 12.5% of the taxable value of the property in the county subject to taxation may be incurred for the construction or improvement of a jail.~~

~~(2) No county may incur indebtedness or liability for any single purpose, except for the construction or improvement of a jail, to an amount exceeding $150,000 without the approval of a majority of the electors thereof~~

voting-at-an-election-to--be--provided--by--law,--except--as provided-in-7-21-3413-and-7-21-3414."

Section-5.--Section--7-7-2203,-MCA,-is-amended-to-read:

"7-7-2203.--Limitation----on----amount----of-----bonded indebtedness.--(1)-Except-as-provided-in-subsections-(2) and (3) through--(4),--no--county--may-issue-general-obligation bonds-for-any-purpose-which,-with-all-outstanding-bonds--and warrants--except--county--high--school--bonds--and-emergency bonds,-will-exceed--11.25%--of--the--taxable--value--of--the property--therein,--to-be-ascertained-by-the-last-assessment for-state-and-county-taxes-prior-to-the-proposed-issuance-of bonds.

(2) A In-addition-to-the-bonds-allowed--by--subsection (1),--a--county--may-issue-bonds-which,-with-all-outstanding bonds-and-warrants,-will-exceed-11.25%-but will--not--exceed 37% 25.75% of--the--taxable--value--of such--property the property-in-the-county-subject-to-taxation,--when--necessary to--do--so,-for-the-purpose-of-acquiring-land-for-a-site-for county-high-school-buildings-and-for-erecting--or--acquiring buildings--thereon-and-furnishing-and-equipping-the-same-for county-high-school-purposes.

(3)--In-addition-to-the-bonds--allowed--by--subsections (1)--and--(2),-a-county-may-issue-bonds-for-the-construction or-improvement-of-a-jail,-which-will-not-exceed-12.5%-of-the taxable-value-of-the--property--in--the--county--subject--to

taxation.

(3)(4) The foregoing limitation in--subsection--(1) shall-not-apply-to-refunding-bonds-issued-for-the-purpose-of paying-or-retiring-county-bonds--lawfully--issued--prior--to January-1,-1932."

Section-6.--Section--7-7-2221,-MCA,-is-amended-to-read:

"7-7-2221.--Issuance--of--certain--general---obligation bonds---without--election.---Bonds--may--be--issued--without submitting-the-same-to-an-election-if-the-bonds--are--issued for-the-purpose-of:

(1)--enabling-a-county-to-liquidate-its-indebtedness-to another--county--incident-to-the-creation-of-a-new-county-or the-changing-of-a-county-boundary--line,--as--set--forth--in 7-7-2201(5); and

(2)--funding,---paying---in---full,---or--compromising, settling,-and-satisfying-any-judgment-which--may--have--been rendered---against--the--county--in--a--court--of--competent jurisdiction,-as-set-forth-in-7-7-2202,-and

(3)--construction-or-improvement-of-a-jail."

SECTION 5. SECTION 7-7-2201, MCA, IS AMENDED TO READ:

"7-7-2201. Purposes for which general obligation bonds of a county may be issued. The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate, and sell coupon bonds on the credit of the county, as more specifically provided in

this part, for any of the following purposes:

(1) acquiring land for sites and grounds for a public building or buildings of any kind within the county and under its control, which the county has lawful authority to acquire or erect, control, and maintain except that if the bonds are sold to fund a multicounty jail facility, funds so raised may be used in the county in which the multicounty jail facility is located;

(2) acquiring land for any other public use or activity within the county, under its control and authorized by law;

(3) constructing, erecting, or acquiring by purchase necessary public buildings within the county, under its control and authorized by law; making additions to and repairing buildings; and furnishing and equipping the same except that if the bonds are sold to fund a multicounty jail facility, funds so raised may be used in the county in which the multicounty jail facility is located;

(4) building, purchasing, constructing, and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;

(5) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of any county boundary line;

(6) funding, paying, and retiring outstanding county

warrants lawfully issued against the county general fund, road fund, bridge fund, or poor fund when:

(a) there is not sufficient money in the fund against which such warrants are drawn to pay and retire such warrants; and

(b) the levying of taxes sufficient to pay and retire such warrants within a period of 3 years would, in the judgment of the board, work a hardship and be an undue burden upon the taxpayers of the county."

SECTION 6. SECTION 7-7-2203, MCA, IS AMENDED TO READ:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) and ~~(3)~~ through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the taxable value of the property therein, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) A In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, ~~will exceed 11.25% but~~ will not exceed ~~37%~~ 25.75% of the taxable value of ~~such property~~ the property in the county subject to taxation, when necessary to do so, for the purpose of acquiring land for a site for

county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed 12.5% of the taxable value of the property in the county subject to taxation.

~~(3)~~(4) The ~~foregoing~~ limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Section 7. Section 7-32-2121, MCA, is amended to read:

"7-32-2121. Duties of sheriff. The sheriff must:

(1) preserve the peace;

(2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

(3) prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

(4) perform the duties of a humane officer within the county with reference to the protection of dumb animals;

(5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held

within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the county jail and the prisoners therein, unless the jail is operated by a private party under an agreement entered into under 7-32-2201 or by a jail administrator;

(8) endorse upon all notices and process the year, month, day, hour, and minute of reception and issue therefor to the person delivering them, on payment of fees, a certificate showing the names of the parties, the title of the paper, and the time of reception;

(9) serve all process or notices in the manner prescribed by law;

(10) certify in writing upon the process or notices the manner and time of service or, if he fails to make service, the reasons of this failure, and return the papers without delay;

(11) take charge of and supervise search and rescue units and their officers whenever search and rescue units are called into service; and

(12) perform such other duties as are required by law."

Section 8. Section 7-32-2123, MCA, is amended to read:

"7-32-2123. Appointment of deputy sheriff to act as jailer. The A sheriff who operates a county jail may appoint two deputies in counties of the first, second, or third class and one deputy in counties of the fourth, fifth, sixth, or seventh class who shall act as jailer and receive the same salary as other deputy sheriffs."

Section 9. Section 7-32-2132, MCA, is amended to read:

"7-32-2132. Liability for escape in civil actions. (1) A sheriff, jail administrator, or private party jailer who fails to prevent the escape or rescue of a person in his custody arrested in a civil action without the consent or connivance of the party in whose behalf the arrest or imprisonment was made is liable as follows:

(a) When the arrest is upon an order to hold for bail or upon a surrender in exoneration of bail before judgment, the sheriff, jail administrator, or private party jailer is liable to the plaintiff for the bail.

(b) When the arrest is on an execution or commitment to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the amount expressed in the execution or commitment.

(c) When the arrest is on an execution or commitment other than to enforce the payment of money, the sheriff, jail administrator, or private party jailer is liable for the actual damages sustained.

(2) Upon being sued for damages for an escape or rescue of a person in his custody, the sheriff, jail administrator, or private party jailer may introduce evidence in mitigation or exculpation.

(3) An action may not be maintained against a sheriff, jail administrator, or private party jailer for a rescue or for an escape of a person arrested upon an execution or commitment if, after his rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff, jail administrator, or private party jailer."

Section 10. Section 7-32-2201, MCA, is amended to read:

"7-32-2201. County jail required. (1) A jail shall be built or provided and kept in good repair at the expense of the county in each county, except that whenever in the discretion of the commissioners of two or more counties it is necessary or desirable to build, provide, or utilize a common jail, they may do so in any city or town located within one of the counties so concerned. Such common jail shall be built or provided and kept in good repair at the expense of the counties concerned on a basis as the commissioners of the counties shall agree.

(2) A county, or two or more counties acting together, may provide for the jail required by subsection (1) by:

(a) establishing in the county government the position of jail administrator and, with the sheriff's concurrence, hiring a person, who is answerable to the governing body of the county, to fill the position; or

(b) entering into an agreement, WITH THE CONCURRENCE OF THE SHERIFFS OF ALL PARTICIPATING COUNTIES, with a private party under which the private party will provide, maintain, or operate the jail.

~~(2)~~(3) The common jails in the several counties of this state are kept by the sheriffs, jail administrators, or private parties agreeing to act as jailers of the counties in which they are respectively situated. In the case of more than one county utilizing a common jail as provided in subsection (1), such jail shall be kept by the sheriffs of the counties utilizing the common jail on a basis as the sheriffs shall agree, by a jail administrator hired by the county in which the jail is situated, or by a private party agreeing to act as the jailer.

~~(3)~~(4) The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to cause a jail to be erected, furnished, and maintained."

Section 11. Section 7-32-2202, MCA, is amended to read:

"7-32-2202. Use of jail in contiguous county. (1) When

there is no jail in the county or when the jail becomes unfit or unsafe for the confinement of prisoners, the district judge may, by written appointment filed with the clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county (or any of them) and may at any time modify or annul the appointment.

(2) A copy of the appointment, certified by the clerk, must be served on the sheriff ~~or~~ of each county, and OR the keeper of the designated jail if the keeper is not the sheriff, who must receive into his jail all prisoners authorized to be confined therein pursuant to this section and who is responsible for the safekeeping of the persons so committed in the same manner and to the same extent as if he were the sheriff, jail administrator, or private party jailer of the county for whose use his jail is designated. With respect to the persons so committed, he is deemed the sheriff, jail administrator, or private party jailer of the county from which they were removed.

(3) When a jail is erected in the county for the use of which the designation was made or its jail is rendered fit and safe for the confinement of prisoners, the district judge of that county must, by a written revocation filed with the clerk, declare that the necessity for the designation has ceased and that it is revoked.

(4) The clerk must immediately serve a copy of the

revocation upon the sheriff of each county and OR the keeper of the ~~county, who~~ jail in each county if the keeper is not the sheriff. The keeper of the jail in the designated county must thereupon remove the prisoners to the jail from which the removal was had."

Section 12. Section 7-32-2204, MCA, is amended to read:

"7-32-2204. Maintenance of county jail. (1) The county commissioners, or the private party when provided in an agreement entered into under 7-32-2201(2), have the ~~care~~ duty of building, inspecting, and repairing the jail and~~:~~

~~(1) must, once every 3 months, inquire into its state, as respects the security thereof, and the treatment and condition of prisoners; and~~

~~(2)~~ must take all necessary precautions against escape, sickness, or infection.

(2) The county commissioners must inquire into the security of the jail and the condition of the prisoners every 3 months."

Section 13. Section 7-32-2205, MCA, is amended to read:

"7-32-2205. Confinement of prisoners. The sheriff, jail administrator, or private party jailer must receive all persons committed to jail by competent authority and provide them with necessary food, clothing, and bedding, for which

he sheriffs and OR jail administrators, but not jailers operating a jail under an agreement provided for in 7-32-2201(2), shall submit claims for the actual expenses incurred to the board of county commissioners for their determination and, except as provided in 7-32-2207, to be paid out of the county treasury."

Section 14. Section 7-32-2206, MCA, is amended to read:

"7-32-2206. Confinement of federal prisoners. (1) The sheriff, jail administrator, or private party jailer must receive and keep in the county jail any prisoner committed thereto by process or order issued under the authority of the United States until he is discharged according to law, as if he had been committed under process issued under the authority of this state.

(2) Provision and agreement for the use of said jails and the support and subsistence of such federal prisoners shall first be made by the United States, through or by the proper officer or officers, with the board of county commissioners of the county wherein such prisoners are to be confined. Such agreement shall be in writing and contain a provision that the United States shall, upon claim presented for the county by its county clerk and recorder, pay into the county treasury of the county or to a jailer operating a jail under an agreement provided for by 7-32-2201(2) the sum

of $10 per day for each and every prisoner held in the county jail upon order or commitment of the United States government or any department or officer thereof.

(3) A sheriff, jail administrator, or private party jailer to whose custody a prisoner is committed as provided in this section is answerable for his safekeeping in the courts of the United States, according to the laws thereof."

Section 15. Section 7-32-2207, MCA, is amended to read:

"7-32-2207. Confinement of persons on civil process. (1) Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff, jail administrator, or private party jailer is not bound to receive such person unless security is given on the part of the party at whose instance the process is issued, by a deposit of money, to meet the expenses for him of necessary food, clothing, and bedding or to detain such person any longer than these expenses are provided for.

(2) This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court."

Section 16. Section 7-32-2209, MCA, is amended to read:

"7-32-2209. Expenses of persons committed to jail by

highway patrol bureau. In the event a person is committed to jail by the highway patrol bureau, department of justice, the state of Montana shall, upon claim presented for the county by the clerk and recorder, pay into the county treasury of the county or to a jailer operating a jail under an agreement provided for in 7-32-2201(2) the sum of $10 per day for each and every prisoner held in the county jail upon order or commitment of the highway patrol bureau or any department or officer thereof. For the purposes of this section, a day shall be defined as a 24-hour period or portion thereof, beginning with the time of incarceration. Such claims upon the highway patrol bureau, department of justice, shall be paid ~~to the various counties~~ out of funds appropriated for that purpose."

Section 17. Section 7-32-2212, MCA, is amended to read:

"7-32-2212. ~~Sheriff to prepare list~~ List of prisoners. The sheriff, jail administrator, or private party jailer of each county must, on the first Monday in January and every 3 months thereafter, return to the county commissioners a certified list of the names of all prisoners in his custody on the last day of the preceding month, with the time and cause of their confinement, the length of time for which they were committed, and the number received and discharged during the preceding 3 months. In case he fails to do so,

the sheriff, jail administrator, or private party jailer must not receive any compensation for the sustenance of the prisoners in his custody."

Section 18. Section 7-32-2221, MCA, is amended to read:

"7-32-2221. Segregation of prisoners -- confinement of juveniles. (1) Each county jail must contain a sufficient number of rooms to allow the sheriff, jail administrator, or private party jailer to separately confine classes of prisoners as may be necessary to the security and safety of those prisoners and the jail.

(2) Persons who are violent, disturbed, or inebriated must not be kept or put into the same room with other prisoners, nor shall male and female prisoners (except husband and wife) be kept or put into the same room.

(3) Juveniles may be confined only under conditions that comply with 41-5-306(2)."

Section 19. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) When a county jail or building contiguous to it is on fire and there is reason to believe that the prisoners may be injured or endangered, the sheriff, jail administrator, or private party jailer must remove them to a safe and convenient place and there confine them as long as it may be necessary to

avoid the danger.

(2) When a pestilence or contagious disease breaks out in or near a jail and the physician thereof certifies that it is likely to endanger the health of the prisoners, the district judge may by a written appointment designate a safe and convenient place in the county or the jail in a contiguous county as the place of their confinement. The appointment must be filed in the office of the clerk and authorize the sheriff, jail administrator, or private party jailer to remove the prisoners to the designated place or jail and there confine them until they can be safely returned to the jail from which they were taken.

(3) If in the opinion of the sheriff, jail administrator, or private party jailer any prisoner, while detained, requires medication, medical services, or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the prisoner is being detained. The county attorney shall initiate proceedings to collect any charges arising from such medical services or hospitalization for the prisoner involved if it is determined the prisoner is financially able to pay."

-End-